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Sixty-fourth session
**Third Committee**
Agenda item 69 (b)
**Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms**

**Argentina, Brazil, Chile, Colombia, Guatemala, Panama, Peru and Uruguay: draft resolution**

## United Nations Decade for People of African Descent

*The General Assembly*,

*Reaffirming* the Universal Declaration of Human Rights,[1] which proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

*Recalling* the International Covenant on Civil and Political Rights,[2] the International Covenant on Economic, Social and Cultural Rights,[2] the Convention on the Elimination of All Forms of Discrimination against Women,[3] the Convention on the Rights of the Child[4] and the International Convention on the Elimination of All Forms of Racial Discrimination,[5] and other relevant international human rights instruments,

*Recalling*, in particular, article 26 of the International Covenant on Civil and Political Rights,[2] which provides that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law and that, in this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

[1] Resolution 217 A (III).
[2] Resolution 2200 A (XXI), annex.
[3] United Nations, *Treaty Series*, vol. 1249, No. 20378.
[4] Ibid., vol. 1577, No. 27531.
[5] Ibid., vol. 660, No. 9464.

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*Recalling also*, in particular, article 2 of the International Covenant on Economic, Social and Cultural Rights,[2] which provides that States parties undertake to guarantee that the rights enunciated in that Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

*Reaffirming* that one of the fundamental purposes of the United Nations is to achieve international cooperation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction,

*Recalling* the relevant provisions of the outcomes of all major United Nations conferences and summits,

*Recalling also* its resolutions 62/122 of 17 December 2007 and 63/5 of 20 October 2008 on the permanent memorial to and remembrance of the victims of slavery and the transatlantic slave trade,

*Reaffirming* the commitment to prevent, combat and eradicate racism and racial discrimination,

*Reaffirming also* the universality, indivisibility, interrelatedness, interdependence and mutually reinforcing nature of all civil, political, cultural, economic and social rights,

*Reiterating* the recognition of the value and diversity of the cultural heritage of people of African descent, and reaffirming the importance and necessity of ensuring their full integration into social, economic and political life, in countries where they represent minorities, with a view to facilitating their full participation at all levels in the decision-making process,

*Taking note* of the valuable contributions made by the various initiatives undertaken at the national, regional and international levels to benefit people of African descent and to realize their human rights and fundamental freedoms,

*Expressing concern* that, despite the efforts, forms of racism and discrimination, and the effects of marginalization and social exclusion against people of African descent, have not been eradicated in some parts of the world,

*Recognizing* that further national and international actions are required to ensure the full enjoyment of all human rights, economic, social, cultural, civil and political, without discrimination, by people of African descent, including men, women and children, as well as the continuous improvement of living conditions,

1. *Proclaims* the ten-year period beginning on 1 January 2010 the United Nations Decade for People of African Descent;

2. *Decides* that the goals of the Decade should include, inter alia:

(a) To strengthen international cooperation and national actions for the benefit of people of African descent in such areas as human rights, gender equality, the environment, development, education, health, employment, housing, and access to information and communication technologies, among others;

(b) To support the implementation of actions to enhance the participation and integration of people of African descent in all political, economic, social and cultural aspects of society, and in the advancement and economic development of their countries, while respecting their cultural and ethnic identities;

(c) To promote a greater knowledge of and respect for their diverse heritage and culture;

(d) To recognize, reaffirm and promote better knowledge of the significant cultural, economic, political and scientific contribution of people of African descent in the development and history of societies;

3. *Urges* Member States to adopt and/or strengthen measures, including on legislative, policy, institutional and operational matters, in order to effectively pursue the goals defined in the present resolution and all other relevant internationally agreed objectives that have a positive impact for the welfare and the realization of human rights of people of African descent;

4. *Encourages* the specialized agencies of the United Nations system to enhance and/or adopt, as appropriate, within their respective mandates, existing resources and strategic frameworks, targets and specific activities in support of the achievement of the goals of the Decade;

5. *Invites* non-governmental organizations, the private sector, and other relevant actors of civil society to consider and implement activities that can contribute to the success of the Decade;

6. *Encourages* Member States, requests specialized entities of the United Nations system, and invites other relevant intergovernmental and non-governmental organizations to participate during 2010 in the consultation process for the formulation of more effective actions, including the draft comprehensive programme of action provided for in the present resolution;

7. *Requests* the Secretary-General, with the collaboration of the United Nations High Commissioner for Human Rights, and taking into account the contributions of Member States, the Committee on the Elimination of Racial Discrimination, specialized entities of the United Nations system, the Working Group of Experts on People of African Descent, and relevant intergovernmental and non-governmental organizations, including organizations of people of African descent, to submit to the General Assembly at its sixty-fifth session a report containing recommendations on how to make the United Nations Decade for People of African Descent (2010-2019) more effective, including a draft comprehensive programme of action for the Decade with action-oriented programmes, and proposals for cooperation and technical assistance, to be undertaken at the international, regional, national and community levels.

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**Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms**

**Argentina, Belarus, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, Guatemala, Honduras, India, Panama, Peru and Uruguay: revised draft resolution**

# International Year for People of African Descent

*The General Assembly*,

*Reaffirming* the Universal Declaration of Human Rights,[1] which proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind,

*Recalling* the International Covenant on Civil and Political Rights,[2] the International Covenant on Economic, Social and Cultural Rights,[2] the International Convention on the Elimination of All Forms of Racial Discrimination,[3] the Convention on the Elimination of All Forms of Discrimination against Women,[4] the Convention on the Rights of the Child,[5] the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families,[6] the Convention on the Rights of Persons with Disabilities[7] and other relevant international human rights instruments,

[1] Resolution 217 A (III).
[2] Resolution 2200 A (XXI), annex.
[3] United Nations, Treaty Series, vol. 660, No. 9464.
[4] Ibid., vol. 1249, No. 20378.
[5] Ibid., vol. 1577, No. 27531.
[6] Ibid., vol. 2220, No. 39481.
[7] Resolution 61/106, annex.

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*Recalling* the relevant provisions of the outcomes of all major United Nations conferences and summits, in particular the Vienna Declaration and Programme of Action[8] and the Durban Declaration and Programme of Action,[9]

*Recalling also* its resolutions 62/122 of 17 December 2007, 63/5 of 20 October 2008 and 64/15 of 16 November 2009 on the permanent memorial to and remembrance of the victims of slavery and the transatlantic slave trade,

1. *Proclaims* the year beginning on 1 January 2011 the International Year for People of African Descent, with a view to strengthening national actions, and regional and international cooperation for the benefit of people of African descent in relation to their full enjoyment of economic, cultural, social, civil and political rights, their participation and integration in all political, economic, social and cultural aspects of society, and the promotion of a greater knowledge of and respect for their diverse heritage and culture;

2. *Encourages* Member States, the United Nations specialized agencies, within their respective mandates and existing resources, and civil society to make preparations for and identify possible initiatives that can contribute to the success of the Year;

3. *Requests* the Secretary-General to submit to the General Assembly at its sixty-fifth session a report containing a draft programme of activities for the International Year, taking into account the views and recommendations of Member States, the United Nations High Commissioner for Human Rights, the Committee on the Elimination of Racial Discrimination, the Working Group of Experts on People of African Descent and other relevant United Nations agencies, funds and programmes, as appropriate.

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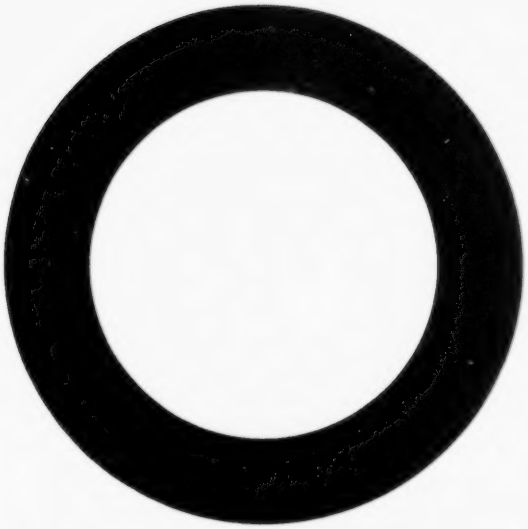
[8] A/CONF.157/24 (Part I), chap. III.

[9] See A/CONF.189/12 and Corr.1, chap. I.



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**Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms**

**Cuba:* draft resolution**

## Human rights and unilateral coercive measures

*The General Assembly*,

*Recalling* all its previous resolutions on this subject, the most recent of which was resolution 63/179 of 18 December 2008, Human Rights Council resolution 12/22 of 2 October 2009[1] and previous resolutions of the Council and the Commission on Human Rights,

*Reaffirming* the pertinent principles and provisions contained in the Charter of Economic Rights and Duties of States proclaimed by the General Assembly in its resolution 3281 (XXIX) of 12 December 1974, in particular article 32 thereof, in which it declared that no State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights,

*Taking note* of the report of the Secretary-General[2] submitted pursuant to General Assembly resolution 63/179 of 18 December 2008 and the reports of the Secretary-General on the implementation of Assembly resolutions 52/120 of 12 December 1997[3] and 55/110 of 4 December 2000,[4]

*Stressing* that unilateral coercive measures and legislation are contrary to international law, international humanitarian law, the Charter of the United Nations and the norms and principles governing peaceful relations among States,

* On behalf of the States Members of the United Nations that are members of the Movement of Non-Aligned Countries.

[1] See *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 53A* (A/64/53/Add.1).

[2] A/64/219.

[3] A/53/293 and Add.1.

[4] A/56/207 and Add.1.



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*Recognizing* the universal, indivisible, interdependent and interrelated character of all human rights, and in this regard reaffirming the right to development as an integral part of all human rights,

*Recalling* the final document of the Fifteenth Summit Conference of the Heads of State and Government of the Movement of Non-Aligned Countries, held in Sharm el-Sheikh, Egypt, in July 2009[5] and those adopted in previous summits and conferences, in which States Members of the Movement agreed to oppose and condemn those measures or laws and their continued application, persevere with efforts to effectively reverse them and urge other States to do likewise, as called for by the General Assembly and other United Nations organs, and request States applying those measures or laws to revoke them fully and immediately,

*Recalling also* that at the World Conference on Human Rights, held in Vienna from 14 to 25 June 1993, States were called upon to refrain from any unilateral measure not in accordance with international law and the Charter that creates obstacles to trade relations among States and impedes the full realization of all human rights,[6] and also severely threatens the freedom of trade,

*Bearing in mind* all the references to this question in the Copenhagen Declaration on Social Development adopted by the World Summit for Social Development on 12 March 1995,[7] the Beijing Declaration and Platform for Action adopted by the Fourth World Conference on Women on 15 September 1995,[8] the Istanbul Declaration on Human Settlements and the Habitat Agenda adopted by the second United Nations Conference on Human Settlements (Habitat II) on 14 June 1996,[9] and their five-year reviews,

*Expressing concern* about the negative impact of unilateral coercive measures on international relations, trade, investment and cooperation,

*Expressing grave concern* that, in some countries, the situation of children is adversely affected by unilateral coercive measures not in accordance with international law and the Charter that create obstacles to trade relations among States, impede the full realization of social and economic development and hinder the well-being of the population in the affected countries, with particular consequences for women and children, including adolescents,

*Deeply concerned* that, despite the recommendations adopted on this question by the General Assembly, the Human Rights Council, the Commission on Human Rights and recent major United Nations conferences, and contrary to general international law and the Charter, unilateral coercive measures continue to be promulgated and implemented with all their negative implications for the social humanitarian activities and economic and social development of developing countries, including their extraterritorial effects, thereby creating additional

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[5] A/63/965-S/2009/514, annex.

[6] See A/CONF.157/24 (Part I), chap. III.

[7] *Report of the World Summit for Social Development, Copenhagen, 6-12 March 1995* (United Nations publication, Sales No. E.96.IV.8), chap. I, resolution 1, annex I.

[8] *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annexes I and II.

[9] *Report of the United Nations Conference on Human Settlements (Habitat II), Istanbul, 3-14 June 1996* (United Nations publication, Sales No. E.97.IV.6), chap. I, resolution 1, annexes I and II.

obstacles to the full enjoyment of all human rights by peoples and individuals under the jurisdiction of other States,

*Bearing in mind* all the extraterritorial effects of any unilateral legislative, administrative and economic measures, policies and practices of a coercive nature against the development process and the enhancement of human rights in developing countries, which create obstacles to the full realization of all human rights,

*Reaffirming* that unilateral coercive measures are a major obstacle to the implementation of the Declaration on the Right to Development,[10]

*Recalling* article 1, paragraph 2, common to the International Covenant on Civil and Political Rights[11] and the International Covenant on Economic, Social and Cultural Rights,[11] which provides, inter alia, that in no case may a people be deprived of its own means of subsistence,

*Noting* the continuing efforts of the open-ended Working Group on the Right to Development of the Human Rights Council, and reaffirming in particular its criteria, according to which unilateral coercive measures are one of the obstacles to the implementation of the Declaration on the Right to Development,

1. *Urges* all States to cease adopting or implementing any unilateral measures not in accordance with international law, the Charter of the United Nations and the norms and principles governing peaceful relations among States, in particular those of a coercive nature with all their extraterritorial effects, which create obstacles to trade relations among States, thus impeding the full realization of the rights set forth in the Universal Declaration of Human Rights[12] and other international human rights instruments, in particular the right of individuals and peoples to development;

2. *Also urges* all States not to adopt any unilateral measures not in accordance with international law and the Charter that impede the full achievement of economic and social development by the population of the affected countries, in particular children and women, that hinder their well-being and that create obstacles to the full enjoyment of their human rights, including the right of everyone to a standard of living adequate for his or her health and well-being and his or her right to food, medical care and the necessary social services, as well as to ensure that food and medicine are not used as tools for political pressure;

3. *Strongly objects* to the extraterritorial nature of those measures which, in addition, threaten the sovereignty of States, and in this context calls upon all Member States to neither recognize those measures nor to apply them, as well as to take administrative or legislative measures, as appropriate, to counteract the extraterritorial applications or effects of unilateral coercive measures;

4. *Condemns* the continued unilateral application and enforcement by certain Powers of unilateral coercive measures, and rejects those measures with all their extraterritorial effects as being tools for political or economic pressure against any country, in particular against developing countries, adopted with a view to preventing those countries from exercising their right to decide, of their own free

[10] Resolution 41/128, annex.

[11] See resolution 2200 A (XXI), annex.

[12] Resolution 217 A (III).

will, their own political, economic and social systems, and because of the negative effects of those measures on the realization of all the human rights of vast sectors of their populations, in particular children, women and the elderly;

5. *Reaffirms* that essential goods such as food and medicines should not be used as tools for political coercion and that under no circumstances should people be deprived of their own means of subsistence and development;

6. *Calls upon* Member States that have initiated such measures to abide by the principles of international law, the Charter, the declarations of the United Nations and world conferences and relevant resolutions and to commit themselves to their obligations and responsibilities arising from the international human rights instruments to which they are party by revoking such measures at the earliest possible time;

7. *Reaffirms*, in this context, the right of all peoples to self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development;

8. *Recalls* that, according to the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, contained in the annex to General Assembly resolution 2625 (XXV) of 24 October 1970, and the relevant principles and provisions contained in the Charter of Economic Rights and Duties of States proclaimed by the Assembly in its resolution 3281 (XXIX), in particular article 32 thereof, no State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind;

9. *Rejects* all attempts to introduce unilateral coercive measures, and urges the Human Rights Council to take fully into account the negative impact of those measures, including through the enactment of national laws and their extraterritorial application which are not in conformity with international law, in its task concerning the implementation of the right to development;

10. *Requests* the United Nations High Commissioner for Human Rights, in discharging her functions relating to the promotion, realization and protection of the right to development and bearing in mind the continuing impact of unilateral coercive measures on the population of developing countries, to give priority to the present resolution in her annual report to the General Assembly;

11. *Underlines* that unilateral coercive measures are one of the major obstacles to the implementation of the Declaration on the Right to Development,[10] and in this regard calls upon all States to avoid the unilateral imposition of economic coercive measures and the extraterritorial application of domestic laws that run counter to the principles of free trade and hamper the development of developing countries, as recognized by the Working Group on the Right to Development;

12. *Recognizes* that, in the Declaration of Principles adopted at the first phase of the World Summit on the Information Society, held in Geneva from 10 to 12 December 2003,[13] States were strongly urged to avoid and refrain from any

[13] A/C.2/59/3, annex, chap. I, sect. A.

unilateral measure not in accordance with international law and the Charter of the United Nations in building the information society;

13. *Supports* the invitation of the Human Rights Council to all special rapporteurs and existing thematic mechanisms of the Council in the field of economic, social and cultural rights to pay due attention, within the scope of their respective mandates, to the negative impact and consequences of unilateral coercive measures;

14. *Requests* the Secretary-General to bring the present resolution to the attention of all Member States, to continue to collect their views and information on the implications and negative effects of unilateral coercive measures on their populations and to submit an analytical report thereon to the General Assembly at its sixty-fifth session, while reiterating once again the need to highlight the practical and preventive measures in this respect;

15. *Decides* to examine the question on a priority basis at its sixty-fifth session under the sub-item entitled "Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms".

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**Cuba:* draft resolution**

## Enhancement of international cooperation in the field of human rights

*The General Assembly*,

*Reaffirming its commitment* to promoting international cooperation, as set forth in the Charter of the United Nations, in particular Article 1, paragraph 3, as well as relevant provisions of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,[1] for enhancing genuine cooperation among Member States in the field of human rights,

*Recalling* its adoption of the United Nations Millennium Declaration on 8 September 2000[2] and of its resolution 63/189 of 18 December 2008, Human Rights Council resolution 10/6 of 26 March 2009[3] and the resolutions of the Commission on Human Rights on the enhancement of international cooperation in the field of human rights,

*Recalling also* the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held at Durban, South Africa, from 31 August to 8 September 2001 and its Review Conference, held in Geneva from 20 to 24 April 2009, and their role in the enhancement of international cooperation in the field of human rights,

* On behalf of States Members of the United Nations that are members of the Movement of Non-Aligned Countries.

[1] A/CONF.157/24 (Part I), chap. III.

[2] See resolution 55/2.

[3] See *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 53* (A/64/53), chap. II, sect. A.

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*Recognizing* that the enhancement of international cooperation in the field of human rights is essential for the full achievement of the purposes of the United Nations, including the effective promotion and protection of all human rights,

*Recognizing also* that the promotion and protection of human rights should be based on the principle of cooperation and genuine dialogue and aimed at strengthening the capacity of Member States to comply with their human rights obligations for the benefit of all human beings,

*Reaffirming* that dialogue among religions, cultures and civilizations in the field of human rights could contribute greatly to the enhancement of international cooperation in this field,

*Emphasizing* the need for further progress in the promotion and encouragement of respect for human rights and fundamental freedoms through, inter alia, international cooperation,

*Underlining* the fact that mutual understanding, dialogue, cooperation, transparency and confidence building are important elements in all activities for the promotion and protection of human rights,

*Recalling* the adoption of resolution 2000/22 of 18 August 2000, on the promotion of dialogue on human rights issues, by the Subcommission on the Promotion and Protection of Human Rights at its fifty-second session,[4]

1. *Reaffirms* that it is one of the purposes of the United Nations and the responsibility of all Member States to promote, protect and encourage respect for human rights and fundamental freedoms through, inter alia, international cooperation;

2. *Recognizes* that, in addition to their separate responsibilities to their individual societies, States have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level;

3. *Reaffirms* that dialogue among cultures and civilizations facilitates the promotion of a culture of tolerance and respect for diversity, and welcomes in this regard the holding of conferences and meetings at the national, regional and international levels on dialogue among civilizations;

4. *Urges* all actors on the international scene to build an international order based on inclusion, justice, equality and equity, human dignity, mutual understanding and promotion of and respect for cultural diversity and universal human rights, and to reject all doctrines of exclusion based on racism, racial discrimination, xenophobia and related intolerance;

5. *Reaffirms* the importance of the enhancement of international cooperation for the promotion and protection of human rights and for the achievement of the objectives of the fight against racism, racial discrimination, xenophobia and related intolerance;

6. *Considers* that international cooperation in the field of human rights, in conformity with the purposes and principles set out in the Charter of the United Nations and international law, should make an effective and practical contribution to the urgent task of preventing violations of human rights and fundamental freedoms;

[4] See E/CN.4/2001/2-E/CN.4/Sub.2/2000/46, chap. II, sect. A.

7. *Reaffirms* that the promotion, protection and full realization of all human rights and fundamental freedoms should be guided by the principles of universality, non-selectivity, objectivity and transparency, in a manner consistent with the purposes and principles set out in the Charter;

8. *Calls upon* Member States, the specialized agencies and intergovernmental organizations to continue to carry out a constructive dialogue and consultations for the enhancement of understanding and the promotion and protection of all human rights and fundamental freedoms, and encourages non-governmental organizations to contribute actively to this endeavour;

9. *Invites* States and relevant United Nations human rights mechanisms and procedures to continue to pay attention to the importance of mutual cooperation, understanding and dialogue in ensuring the promotion and protection of all human rights;

10. *Requests* the Secretary-General, in collaboration with the United Nations High Commissioner for Human Rights, to consult States and intergovernmental and non-governmental organizations on ways and means, including defining obstacles and challenges and possible proposals to overcome them, for the enhancement of international cooperation and dialogue in the United Nations human rights machinery, including the Human Rights Council;

11. *Decides* to continue its consideration of the question at its sixty-fifth session.

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**Cuba:* draft resolution**

## The right to development

*The General Assembly*,

*Guided* by the Charter of the United Nations, which expresses, in particular, the determination to promote social progress and better standards of life in larger freedom and, to that end, to employ international mechanisms for the promotion of the economic and social advancement of all peoples,

*Recalling* the Universal Declaration of Human Rights,[1] as well as the International Covenant on Civil and Political Rights[2] and the International Covenant on Economic, Social and Cultural Rights,[2]

*Recalling also* the outcomes of all the major United Nations conferences and summits in the economic and social fields,

*Recalling further* that the Declaration on the Right to Development, adopted by the General Assembly in its resolution 41/128 of 4 December 1986, confirmed that the right to development is an inalienable human right and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations, and that the individual is the central subject and beneficiary of development,

*Stressing* that the Vienna Declaration and Programme of Action[3] reaffirmed the right to development as a universal and inalienable right and an integral part of fundamental human rights, and the individual as the central subject and beneficiary of development,

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* On behalf of the States Members of the United Nations that are members of the Movement of Non-Aligned Countries.

[1] Resolution 217 A (III).

[2] See resolution 2200 A (XXI), annex.

[3] A/CONF.157/24 (Part I), chap. III.



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*Reaffirming* the objective of making the right to development a reality for everyone, as set out in the United Nations Millennium Declaration, adopted by the General Assembly on 8 September 2000,[4]

*Deeply concerned* that the majority of indigenous peoples in the world live in conditions of poverty, and recognizing the critical need to address the negative impact of poverty and inequity on indigenous peoples by ensuring their full and effective inclusion in development and poverty eradication programmes,

*Reaffirming* the universality, indivisibility, interrelatedness, interdependence and mutually reinforcing nature of all civil, cultural, economic, political and social rights, including the right to development,

*Expressing deep concern* over the lack of progress in the trade negotiations of the World Trade Organization, and reaffirming the need for a successful outcome of the Doha Development Round in key areas such as agriculture, market access for non-agricultural products, trade facilitation, development and services,

*Recalling* the outcome of the twelfth session of the United Nations Conference on Trade and Development, held in Accra from 20 to 25 April 2008, on the theme "Addressing the opportunities and challenges of globalization for development",[5]

*Recalling also* all its previous resolutions, Human Rights Council resolution 12/23 of 2 October 2009,[6] previous resolutions of the Council and those of the Commission on Human Rights on the right to development, in particular Commission resolution 1998/72 of 22 April 1998[7] on the urgent need to make further progress towards the realization of the right to development as set out in the Declaration on the Right to Development,

*Welcoming* the outcome of the tenth session of the Working Group on the Right to Development of the Human Rights Council, held in Geneva from 22 to 26 June 2009, as contained in the report of the Working Group[8] and as referred to in the report of the Secretary-General on the right to development,[9]

*Recalling* the Fifteenth Summit Conference of the Heads of State and Government of the Movement of Non-Aligned Countries, held in Sharm el-Sheikh, Egypt, in July 2009 and the previous summits and conferences in which the States members of the Movement stressed the need to operationalize the right to development as a priority,

*Reiterating its continuing support* for the New Partnership for Africa's Development[10] as a development framework for Africa,

*Deeply concerned* by the negative impacts of the global economic and financial crises on the realization of the right to development,

*Recognizing* that poverty is an affront to human dignity,

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[4] See resolution 55/2.

[5] See TD/442 and Corr.1.

[6] See *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 53A* (A/64/53/Add.1).

[7] See *Official Records of the Economic and Social Council, 1998, Supplement No. 3* (E/1998/23), chap. II, sect. A.

[8] A/HRC/12/28.

[9] A/64/256.

[10] A/57/304, annex.

*Recognizing also* that extreme poverty and hunger are the greatest global threat that requires the collective commitment of the international community for its eradication, pursuant to Millennium Development Goal 1, and therefore calling upon the international community, including the Human Rights Council, to contribute towards achieving that goal,

*Recognizing further* that historical injustices have undeniably contributed to the poverty, underdevelopment, marginalization, social exclusion, economic disparity, instability and insecurity that affect many people in different parts of the world, in particular in developing countries,

*Stressing* that poverty eradication is one of the critical elements in the promotion and realization of the right to development and that poverty is a multifaceted problem that requires a multifaceted and integrated approach in addressing economic, political, social, environmental and institutional dimensions at all levels, especially in the context of the Millennium Development Goal of halving, by 2015, the proportion of the world's people whose income is less than one dollar a day and the proportion of people who suffer from hunger,

1. *Endorses* the conclusions and recommendations adopted by consensus by the Working Group on the Right to Development of the Human Rights Council at its tenth session,[8] and calls for their immediate, full and effective implementation by the Office of the United Nations High Commissioner for Human Rights and other relevant actors;

2. *Supports* the realization of the mandate of the Working Group, as renewed by the Human Rights Council in its resolution 9/3 of 24 September 2008,[11] with the recognition that the Working Group will convene annual sessions of five working days and submit its reports to the Council;

3. *Also supports* the realization of the mandate of the high-level task force on the implementation of the right to development established within the framework of the Working Group, as renewed by the Human Rights Council in its resolution 9/3,[11] with the further recognition that the task force will convene annual sessions of seven working days and submit its reports to the Working Group;

4. *Emphasizes* the relevant provisions of General Assembly resolution 60/251 of 15 March 2006 establishing the Human Rights Council, and in this regard calls upon the Council to implement the agreement to continue to act to ensure that its agenda promotes and advances sustainable development and the achievement of the Millennium Development Goals, and also in this regard to lead to raising the right to development, as set out in paragraphs 5 and 10 of the Vienna Declaration and Programme of Action,[3] to the same level and on a par with all other human rights and fundamental freedoms;

5. *Notes with appreciation* that the high-level task force, at its second meeting, examined Millennium Development Goal 8, on developing a global partnership for development, and suggested criteria for a periodic evaluation with the aim of improving the effectiveness of global partnership with regard to the realization of the right to development;[12]

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[11] See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53A* (A/63/53/Add.1), chap. I.

[12] See E/CN.4/2005/WG.18/TF/3.

6. *Endorses* the recommendations of the Working Group, as outlined in paragraphs 44 to 46 of its report,[8] which would ensure that the right to development criteria and corresponding operational subcriteria, to be submitted by the task force to the Working Group at its eleventh session in 2010, together with suggestions for further work, address, in a comprehensive and coherent manner, the essential features of the right to development, as defined in the Declaration on the Right to Development, including the priority concerns of the international community beyond those enumerated in Millennium Development Goal 8;

7. *Stresses* that the above criteria and corresponding operational subcriteria, once considered, revised and endorsed by the Working Group, should be used, as appropriate, in the elaboration of a comprehensive and coherent set of standards for the implementation of the right to development;

8. *Emphasizes* the importance that, upon completion of the three phases of the 2008-2010 workplan of the high-level task force on the implementation of the right to development endorsed by the Council in its resolution 9/3, the Working Group takes appropriate steps to ensure respect for and practical application of the above-mentioned standards, which could take various forms, including the elaboration of guidelines on the implementation of the right to development, and which could evolve into a basis for consideration of an international legal standard of a binding nature, through a collaborative process of engagement;

9. *Stresses* the importance of the core principles contained in the conclusions of the Working Group at its third session,[13] congruent with the purpose of international human rights instruments, such as equality, non-discrimination, accountability, participation and international cooperation, as critical to mainstreaming the right to development at the national and international levels, and underlines the importance of the principles of equity and transparency;

10. *Also stresses* that it is important that the high-level task force and the Working Group, in the discharge of their mandates, take into account the need:

(a) To promote the democratization of the system of international governance in order to increase the effective participation of developing countries in international decision-making;

(b) To also promote effective partnerships such as the New Partnership for Africa's Development[10] and other similar initiatives with the developing countries, particularly the least developed countries, for the purpose of the realization of their right to development, including the achievement of the Millennium Development Goals;

(c) To strive for greater acceptance, operationalization and realization of the right to development at the international level, while urging all States to undertake at the national level the necessary policy formulation and to institute the measures required for the implementation of the right to development as an integral part of fundamental human rights, and also urging all States to expand and deepen mutually beneficial cooperation in ensuring development and eliminating obstacles to development in the context of promoting effective international cooperation for the realization of the right to development, bearing in mind that lasting progress towards the implementation of the right to development requires effective

[13] See E/CN.4/2002/28/Rev.1, sect. VIII.A.

development policies at the national level and a favourable economic environment at the international level;

(d) To consider ways and means to continue to ensure the operationalization of the right to development as a priority;

(e) To mainstream the right to development in the policies and operational activities of the United Nations and the specialized agencies, programmes and funds, as well as in the policies and strategies of the international financial and multilateral trading systems, taking into account in this regard that the core principles of the international economic, commercial and financial spheres, such as equity, non-discrimination, transparency, accountability, participation and international cooperation, including effective partnerships for development, are indispensable in achieving the right to development and preventing discriminatory treatment arising from political or other non-economic considerations, in addressing the issues of concern to the developing countries;

11. *Encourages* the Human Rights Council to consider how to ensure follow-up to the ongoing work of the former Subcommission on the Promotion and Protection of Human Rights on the right to development, in accordance with the relevant provisions of the resolutions adopted by the General Assembly and the Commission on Human Rights and in compliance with decisions to be taken by the Human Rights Council;

12. *Invites* Member States and all other stakeholders to participate actively in future sessions of the Social Forum, while recognizing the strong support extended to the Forum at its previous four sessions by the Subcommission on the Promotion and Protection of Human Rights;

13. *Reaffirms* the commitment to implement the goals and targets set out in all the outcome documents of the major United Nations conferences and summits and their review processes, in particular those relating to the realization of the right to development, recognizing that the realization of the right to development is critical to achieving the objectives, goals and targets set in those outcome documents;

14. *Also reaffirms* that the realization of the right to development is essential to the implementation of the Vienna Declaration and Programme of Action, which regards all human rights as universal, indivisible, interdependent and interrelated, places the human person at the centre of development and recognizes that, while development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgement of internationally recognized human rights;

15. *Stresses* that the primary responsibility for the promotion and protection of all human rights lies with the State, and reaffirms that States have the primary responsibility for their own economic and social development and that the role of national policies and development strategies cannot be overemphasized;

16. *Reaffirms* the primary responsibility of States to create national and international conditions favourable to the realization of the right to development, as well as their commitment to cooperate with each other to that end;

17. *Also reaffirms* the need for an international environment that is conducive to the realization of the right to development;

18. *Stresses* the need to strive for greater acceptance, operationalization and realization of the right to development at the international and national levels, and calls upon States to institute the measures required for the implementation of the right to development as an integral part of fundamental human rights;

19. *Emphasizes* the critical importance of identifying and analysing obstacles impeding the full realization of the right to development at both the national and the international levels;

20. *Affirms* that, while globalization offers both opportunities and challenges, the process of globalization remains deficient in achieving the objectives of integrating all countries into a globalized world, and stresses the need for policies and measures at the national and global levels to respond to the challenges and opportunities of globalization if this process is to be made fully inclusive and equitable;

21. *Recognizes* that, despite continuous efforts on the part of the international community, the gap between developed and developing countries remains unacceptably wide, that most of the developing countries continue to face difficulties in participating in the globalization process and that many risk being marginalized and effectively excluded from its benefits;

22. *Expresses its deep concern* in this regard at the negative impact on the realization of the right to development owing to the further aggravation of the economic and social situation, in particular of developing countries, as a result of the ongoing international energy, food and financial crises as well as global climate change;

23. *Underlines* the fact that the international community is far from meeting the target set in the United Nations Millennium Declaration[4] of halving the number of people living in poverty by 2015, reaffirms the commitment made to meet that target, and emphasizes the principle of international cooperation, including partnership and commitment, between developed and developing countries towards achieving the goal;

24. *Urges* developed countries that have not yet done so to make concrete efforts towards meeting the targets of 0.7 per cent of their gross domestic product for official development assistance to developing countries and 0.15 to 0.2 per cent of their gross domestic product to least developed countries, and encourages developing countries to build on the progress achieved in ensuring that official development assistance is used effectively to help meet development goals and targets;

25. *Recognizes* the need to address market access for developing countries, including in agriculture, services and non-agricultural products, in particular those of interest to developing countries;

26. *Calls* for the implementation of a desirable pace of meaningful trade liberalization, including in areas under negotiation in the World Trade Organization; the implementation of commitments on implementation-related issues and concerns; a review of special and differential treatment provisions, with a view to strengthening them and making them more precise, effective and operational; the avoidance of new forms of protectionism; and capacity-building and technical

assistance for developing countries as important issues in making progress towards the effective implementation of the right to development;

27. *Recognizes* the important link between the international economic, commercial and financial spheres and the realization of the right to development; stresses, in this regard, the need for good governance and broadening the base of decision-making at the international level on issues of development concern and the need to fill organizational gaps, as well as to strengthen the United Nations system and other multilateral institutions; and also stresses the need to broaden and strengthen the participation of developing countries and countries with economies in transition in international economic decision-making and norm-setting;

28. *Also recognizes* that good governance and the rule of law at the national level assist all States in the promotion and protection of human rights, including the right to development, and agrees on the value of the ongoing efforts being made by States to identify and strengthen good governance practices, including transparent, responsible, accountable and participatory government, that are responsive and appropriate to their needs and aspirations, including in the context of agreed partnership approaches to development, capacity-building and technical assistance;

29. *Further recognizes* the important role and the rights of women and the application of a gender perspective as a cross-cutting issue in the process of realizing the right to development, and notes in particular the positive relationship between women's education and their equal participation in the civil, cultural, economic, political and social activities of the community and the promotion of the right to development;

30. *Stresses* the need for the integration of the rights of children, girls and boys alike, in all policies and programmes and for ensuring the promotion and protection of those rights, especially in areas relating to health, education and the full development of their capacities;

31. *Welcomes* the Political Declaration on HIV/AIDS adopted at the high-level meeting of the General Assembly on 2 June 2006,[14] stresses that further and additional measures must be taken at the national and international levels to fight HIV/AIDS and other communicable diseases, taking into account ongoing efforts and programmes, and reiterates the need for international assistance in this regard;

32. *Recalls* the Convention on the Rights of Persons with Disabilities,[15] which entered into force on 3 May 2008, and stresses the need to take into consideration the rights of persons with disabilities and the importance of international cooperation in the realization of the right to development;

33. *Stresses its commitment* to indigenous peoples in the process of the realization of the right to development, and reaffirms the commitment to promote their rights in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security, in accordance with recognized international human rights obligations and taking into account, as appropriate, the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly in its resolution 61/295 of 13 September 2007;

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[14] Resolution 60/262, annex.

[15] Resolution 61/106, annex I.

34. *Recognizes* the need for strong partnerships with civil society organizations and the private sector in pursuit of poverty eradication and development, as well as for corporate social responsibility;

35. *Emphasizes* the urgent need for taking concrete and effective measures to prevent, combat and criminalize all forms of corruption at all levels, to prevent, detect and deter in a more effective manner international transfers of illicitly acquired assets and to strengthen international cooperation in asset recovery, consistent with the principles of the United Nations Convention against Corruption,[16] particularly chapter V thereof, stresses the importance of a genuine political commitment on the part of all Governments through a firm legal framework, and in this context urges States to sign and ratify the Convention as soon as possible and States parties to implement it effectively;

36. *Also emphasizes* the need to strengthen further the activities of the Office of the United Nations High Commissioner for Human Rights in the promotion and realization of the right to development, including by ensuring effective use of the financial and human resources necessary to fulfil its mandate, and calls upon the Secretary-General to provide the Office of the High Commissioner with the necessary resources;

37. *Reaffirms* the request to the United Nations High Commissioner for Human Rights, in mainstreaming the right to development, to undertake effectively activities aimed at strengthening the global partnership for development between Member States, development agencies and the international development, financial and trade institutions, and to reflect those activities in detail in her next report to the Human Rights Council;

38. *Calls upon* the United Nations, funds and programmes, as well as the specialized agencies, to mainstream the right to development in their operational programmes and objectives, and stresses the need for the international financial and multilateral trading systems to mainstream the right to development in their policies and objectives;

39. *Requests* the Secretary-General to bring the present resolution to the attention of Member States, United Nations organs and bodies, specialized agencies, funds and programmes, international development and financial institutions, in particular the Bretton Woods institutions, and non-governmental organizations;

40. *Also requests* the Secretary-General to submit a report to the General Assembly at its sixty-fifth session and an interim report to the Human Rights Council on the implementation of the present resolution, including efforts undertaken at the national, regional and international levels in the promotion and realization of the right to development, and invites the Chairperson of the Working Group on the Right to Development to present a verbal update to the Assembly at its sixty-fifth session.

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[16] United Nations, *Treaty Series*, vol. 2349, No. 42146.

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**Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms**

**Cuba:* draft resolution**

# Promotion of equitable geographical distribution in the membership of the human rights treaty bodies

*The General Assembly*,

*Recalling* its previous resolutions on this question,

*Reaffirming* the importance of the goal of universal ratification of the United Nations human rights instruments,

*Welcoming* the significant increase in the number of ratifications of United Nations human rights instruments, which has especially contributed to their universality,

*Reiterating* the importance of the effective functioning of treaty bodies established pursuant to United Nations human rights instruments for the full and effective implementation of those instruments,

*Recalling* that, with regard to the election of the members of the human rights treaty bodies, the General Assembly as well as the former Commission on Human Rights recognized the importance of giving consideration in their membership to equitable geographical distribution, gender balance and representation of the principal legal systems and of bearing in mind that the members shall be elected and shall serve in their personal capacity, and shall be of high moral character, acknowledged impartiality and recognized competence in the field of human rights,

* On behalf of the States Members of the United Nations that are members of the Movement of Non-Aligned Countries.

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*Reaffirming* the significance of national and regional particularities and various historical, cultural and religious backgrounds, as well as of different political, economic and legal systems,

*Recognizing* that the United Nations pursues multilingualism as a means of promoting, protecting and preserving diversity of languages and cultures globally and that genuine multilingualism promotes unity in diversity and international understanding,

*Recalling* that the General Assembly as well as the former Commission on Human Rights encouraged States parties to United Nations human rights treaties, individually and through meetings of States parties, to consider how to give better effect, inter alia, to the principle of equitable geographical distribution in the membership of treaty bodies,

*Expressing concern* at the regional imbalance in the current composition of the membership of some of the human rights treaty bodies,

*Noting in particular* that the status quo tends to be detrimental to the election of experts from some regional groups, in particular African, Asian, Latin American and Caribbean, and Eastern European Groups,

*Convinced* that the goal of equitable geographical distribution in the membership of human rights treaty bodies is perfectly compatible and can be fully realized and achieved in harmony with the need to ensure gender balance and the representation of the principal legal systems in those bodies and the high moral character, acknowledged impartiality and recognized competence in the field of human rights of their members,

1. *Reiterates* that States parties should take into account, in their nomination of members to the human rights treaty bodies, that these committees shall be composed of persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience, and to equal representation of women and men, and that members serve in their personal capacity, and also reiterates that, in the elections to the human rights treaty bodies, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems;

2. *Encourages* the States parties to the United Nations human rights instruments to consider and adopt concrete actions, inter alia, the possible establishment of quota distribution systems by geographical region for the election of the members of the treaty bodies, thereby ensuring the paramount objective of equitable geographical distribution in the membership of those human rights bodies;

3. *Urges* the States parties to the United Nations human rights instruments, including the bureau members, to include this matter in the agenda of each Conference of States Parties of those instruments in order to initiate a debate on ways and means to ensure equitable geographical distribution in the membership of the human rights treaty bodies, based on previous recommendations of the Commission on Human Rights and the Economic and Social Council and the provisions of the present resolution;

4. *Recommends*, when considering the possible establishment of a quota by region for the election of the membership of each treaty body, the introduction of flexible procedures that encompass the following criteria:

(*a*) Each of the five regional groups established by the General Assembly must be assigned a quota of the membership of each treaty body in equivalent proportion to the number of States parties to the instrument that it represents;

(*b*) There must be provision for periodic revisions that reflect the relative changes in the geographical distribution of States parties;

(*c*) Automatic periodic revisions should be envisaged in order to avoid amending the text of the instrument when the quotas are revised;

5. *Stresses* that the process needed to achieve the goal of equitable geographical distribution in the membership of human rights treaty bodies can contribute to raising awareness of the importance of gender balance, the representation of the principal legal systems and the principle that the members of the treaty bodies shall be elected and shall serve in their personal capacity, and shall be of high moral character, acknowledged impartiality and recognized competence in the field of human rights;

6. *Requests* the chairpersons of the human rights treaty bodies to consider at their next meeting the content of the present resolution and to submit, through the United Nations High Commissioner for Human Rights, specific recommendations for the achievement of the goal of equitable geographical distribution in the membership of the human rights treaty bodies;

7. *Requests* the High Commissioner to submit concrete recommendations on the implementation of the present resolution to the General Assembly at its sixty-sixth session;

8. *Decides* to continue its consideration of the question at its sixty-sixth session under the item entitled "Promotion and protection of human rights".

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**Cuba:* draft resolution**

## Human rights and cultural diversity

*The General Assembly*,

*Recalling* the Universal Declaration of Human Rights,[1] the International Covenant on Economic, Social and Cultural Rights[2] and the International Covenant on Civil and Political Rights,[2] as well as other pertinent human rights instruments,

*Recalling also* its resolutions 54/160 of 17 December 1999, 55/91 of 4 December 2000, 57/204 of 18 December 2002, 58/167 of 22 December 2003, 60/167 of 16 December 2005 and 62/155 of 18 December 2007, and recalling further its resolutions 54/113 of 10 December 1999, 55/23 of 13 November 2000 and 60/4 of 20 October 2005 concerning the United Nations Year of Dialogue among Civilizations,

*Noting* that numerous instruments within the United Nations system promote cultural diversity, as well as the conservation and development of culture, in particular the Declaration of the Principles of International Culture Cooperation proclaimed on 4 November 1966 by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its fourteenth session,[3]

*Taking note* of the report of the Secretary-General,[4]

* On behalf of the States Members of the United Nations that are members of the Movement of Non-Aligned Countries.

[1] Resolution 217 A (III).

[2] See resolution 2200 A (XXI), annex.

[3] See United Nations Educational, Scientific and Cultural Organization, *Records of the General Conference, Fourteenth Session, Paris, 1966, Resolutions*.

[4] A/64/160.

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*Recalling* that, as stated in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, contained in the annex to its resolution 2625 (XXV) of 24 October 1970, States have the duty to cooperate with one another, irrespective of the differences in their political, economic and social systems, in the various spheres of international relations, in the promotion of universal respect for and observance of human rights and fundamental freedoms for all, and in the elimination of all forms of racial discrimination and all forms of religious intolerance,

*Welcoming* the adoption of the Global Agenda for Dialogue among Civilizations by its resolution 56/6 of 9 November 2001,

*Welcoming also* the contribution of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, from 31 August to 8 September 2001, to the promotion of respect for cultural diversity,

*Welcoming further* the Universal Declaration on Cultural Diversity of the United Nations Educational, Scientific and Cultural Organization,[5] together with its Action Plan,[6] adopted on 2 November 2001 by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its thirty-first session, in which member States invited the United Nations system and other intergovernmental and non-governmental organizations concerned to cooperate with the United Nations Educational, Scientific and Cultural Organization in the promotion of the principles set forth in the Declaration and its Action Plan with a view to enhancing the synergy of actions in favour of cultural diversity,

*Taking note* of the Ministerial Meeting on Human Rights and Cultural Diversity of the Movement of Non-Aligned Countries, held in Tehran on 3 and 4 September 2007,

*Reaffirming* that all human rights are universal, indivisible, interdependent and interrelated and that the international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis, and that, while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms,

*Recognizing* that cultural diversity and the pursuit of cultural development by all peoples and nations are a source of mutual enrichment for the cultural life of humankind,

*Taking into account* that a culture of peace actively fosters non-violence and respect for human rights and strengthens solidarity among peoples and nations and dialogue between cultures,

*Recognizing* that all cultures and civilizations share a common set of universal values,

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[5] United Nations Educational, Scientific and Cultural Organization, *Records of the General Conference, Thirty-first Session, Paris, 15 October-3 November 2001*, vol. 1 and corrigendum: *Resolutions*, chap. V, resolution 25, annex I.

[6] Ibid., annex II.

*Recognizing also* that the promotion of the rights of indigenous people and their cultures and traditions will contribute to the respect for and observance of cultural diversity among all peoples and nations,

*Considering* that tolerance of cultural, ethnic, religious and linguistic diversities, as well as dialogue among and within civilizations, is essential for peace, understanding and friendship among individuals and people of different cultures and nations of the world, while manifestations of cultural prejudice, intolerance and xenophobia towards different cultures and religions generate hatred and violence among peoples and nations throughout the world,

*Recognizing* in each culture a dignity and value that deserve recognition, respect and preservation, and convinced that, in their rich variety and diversity, and in the reciprocal influences that they exert on one another, all cultures form part of the common heritage belonging to all humankind,

*Convinced* that the promotion of cultural pluralism and tolerance towards and dialogue among various cultures and civilizations would contribute to the efforts of all peoples and nations to enrich their cultures and traditions by engaging in a mutually beneficial exchange of knowledge and intellectual, moral and material achievements,

*Acknowledging* the diversity of the world, recognizing that all cultures and civilizations contribute to the enrichment of humankind, acknowledging the importance of respect and understanding for religious and cultural diversity throughout the world, and, in order to promote international peace and security, committing itself to advancing human welfare, freedom and progress everywhere, as well as to encouraging tolerance, respect, dialogue and cooperation among different cultures, civilizations and peoples,

1. *Affirms* the importance for all peoples and nations to hold, develop and preserve their cultural heritage and traditions in a national and international atmosphere of peace, tolerance and mutual respect;

2. *Welcomes* the adoption on 8 September 2000 of the United Nations Millennium Declaration,[7] in which Member States consider, inter alia, that tolerance is one of the fundamental values essential to international relations in the twenty-first century and that it should include the active promotion of a culture of peace and dialogue among civilizations, with human beings respecting one another in all their diversity of belief, culture and language, neither fearing nor repressing differences within and between societies but cherishing them as a precious asset of humanity;

3. *Recognizes* the right of everyone to take part in cultural life and to enjoy the benefits of scientific progress and its applications;

4. *Affirms* that the international community should strive to respond to the challenges and opportunities posed by globalization in a manner that ensures respect for the cultural diversity of all;

5. *Expresses its determination* to prevent and mitigate cultural homogenization in the context of globalization, through increased intercultural exchange guided by the promotion and protection of cultural diversity;

[7] See resolution 55/2.

6. *Affirms* that intercultural dialogue essentially enriches the common understanding of human rights and that the benefits to be derived from the encouragement and development of international contacts and cooperation in the cultural fields are important;

7. *Welcomes* the recognition at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance of the necessity of respecting and maximizing the benefits of diversity within and among all nations in working together to build a harmonious and productive future by putting into practice and promoting values and principles such as justice, equality and non-discrimination, democracy, fairness and friendship, tolerance and respect within and among communities and nations, in particular through public information and educational programmes to raise awareness and understanding of the benefits of cultural diversity, including programmes in which the public authorities work in partnership with international and non-governmental organizations and other sectors of civil society;

8. *Recognizes* that respect for cultural diversity and the cultural rights of all enhances cultural pluralism, contributing to a wider exchange of knowledge and understanding of cultural background, advancing the application and enjoyment of universally accepted human rights throughout the world and fostering stable, friendly relations among peoples and nations worldwide;

9. *Emphasizes* that the promotion of cultural pluralism and tolerance at the national, regional and international levels is important for enhancing respect for cultural rights and cultural diversity;

10. *Also emphasizes* that tolerance and respect for diversity facilitate the universal promotion and protection of human rights, including gender equality and the enjoyment of all human rights by all, and underlines the fact that tolerance and respect for cultural diversity and the universal promotion and protection of human rights are mutually supportive;

11. *Urges* all actors on the international scene to build an international order based on inclusion, justice, equality and equity, human dignity, mutual understanding and promotion of and respect for cultural diversity and universal human rights, and to reject all doctrines of exclusion based on racism, racial discrimination, xenophobia and related intolerance;

12. *Urges* States to ensure that their political and legal systems reflect the multicultural diversity within their societies and, where necessary, to improve democratic institutions so that they are more fully participatory and avoid marginalization and exclusion of, and discrimination against, specific sectors of society;

13. *Calls upon* States, international organizations and United Nations agencies, and invites civil society, including non-governmental organizations, to recognize and promote respect for cultural diversity for the purpose of advancing the objectives of peace, development and universally accepted human rights;

14. *Stresses* the necessity of freely using the media and new information and communications technologies to create the conditions for a renewed dialogue among cultures and civilizations;

15. *Requests* the Office of the United Nations High Commissioner for Human Rights to continue to bear in mind fully the issues raised in the present resolution in the course of its activities for the promotion and protection of human rights;

16. *Requests* the Office of the High Commissioner and the United Nations Educational, Scientific and Cultural Organization to support initiatives aimed at promoting intercultural dialogue on human rights;

17. *Urges* relevant international organizations to conduct studies on how the respect for cultural diversity contributes to fostering international solidarity and cooperation between all nations;

18. *Requests* the Secretary-General, in the light of the present resolution, to prepare a report on human rights and cultural diversity, taking into account the views of Member States, relevant United Nations agencies and non-governmental organizations, as well as the considerations in the present resolution regarding the recognition and importance of cultural diversity among all peoples and nations in the world, and to submit the report to the General Assembly at its sixty-sixth session;

19. *Decides* to continue consideration of the question at its sixty-sixth session under the sub-item entitled "Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms".

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Report of the Human Rights Council

**Argentina, Brazil, Chile, Ecuador, Guatemala, Mexico, Panama and Uruguay: draft resolution**

## Guidelines for the Alternative Care of Children

*The General Assembly*,

*Reaffirming* the Universal Declaration of Human Rights[1] and the Convention on the Rights of the Child,[2] and celebrating the twentieth anniversary of the Convention in 2009,

*Reaffirming also* all previous resolutions on the rights of the child of the Human Rights Council, the Commission on Human Rights and the General Assembly, the most recent being Council resolutions 7/29 of 28 March 2008, 9/13 of 24 September 2008 and 10/8 of 26 March 2009 and Assembly resolution 63/241 of 24 December 2008,

*Considering* that the Guidelines for the Alternative Care of Children, the text of which is annexed to the present resolution, set out desirable orientations for policy and practice with the intention of enhancing the implementation of the Convention on the Rights of the Child, and of relevant provisions of other international instruments regarding the protection and well-being of children deprived of parental care or who are at risk of being so,

1. *Welcomes* the Guidelines for the Alternative Care of Children, as contained in the annex to the present resolution, as a set of orientations for policy and practice;

2. *Encourages* States to take the Guidelines into account and to bring them to the attention of the relevant executive, legislative and judiciary bodies of government, human rights defenders and lawyers, the media and the public in general;

[1] Resolution 217 A (III).
[2] United Nations, *Treaty Series*, vol. 1577, No. 27531.

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3. *Requests* the Secretary-General, within existing resources, to take steps to disseminate the Guidelines for the Alternative Care of Children in all the official languages of the United Nations, including by transmitting them to all Member States, regional commissions and relevant intergovernmental and non-governmental organizations.

# Annex

## Guidelines for the Alternative Care of Children

### I. Purpose

1. The present Guidelines are intended to enhance the implementation of the Convention on the Rights of the Child and of relevant provisions of other international instruments regarding the protection and well-being of children who are deprived of parental care or who are at risk of being so.

2. Against the background of these international instruments and taking account of the developing body of knowledge and experience in this sphere, the Guidelines set out desirable orientations for policy and practice. They are designed for wide dissemination among all sectors directly or indirectly concerned with issues relating to alternative care, and seek in particular to:

(a) Support efforts to keep children in, or return them to, the care of their family or, failing this, to find another appropriate and permanent solution, including adoption and *kafala* of Islamic law;

(b) Ensure that, while such permanent solutions are being sought, or in cases where they are not possible or are not in the best interests of the child, the most suitable forms of alternative care are identified and provided, under conditions that promote the child's full and harmonious development;

(c) Assist and encourage governments to better implement their responsibilities and obligations in these respects, bearing in mind the economic, social and cultural conditions prevailing in each State; and

(d) Guide policies, decisions and activities of all concerned with social protection and child welfare in both the public and private sectors, including civil society.

### II. General principles and perspectives

#### A. The child and the family

3. The family being the fundamental group of society and the natural environment for the growth, well-being and protection of children, efforts should primarily be directed to enabling the child to remain in or return to the care of his/her parents, or when appropriate, other close family members. The State should ensure that families have access to forms of support in the caregiving role.

4. Every child and young person should live in a supportive, protective and caring environment that promotes his/her full potential. Children with inadequate or no parental care are at special risk of being denied such a nurturing environment.

5. Where the child's own family is unable, even with appropriate support, to provide adequate care for the child, or abandons or relinquishes the child, the State is responsible for protecting the rights of the child and ensuring appropriate alternative care, with or through competent local authorities and duly authorized civil society organizations. It is the role of the State, through its competent authorities, to ensure the supervision of the safety, well-being and development of

any child placed in alternative care and the regular review of the appropriateness of the care arrangement provided.

6. All decisions, initiatives and approaches falling within the scope of the present Guidelines should be made on a case-by-case basis, with a view notably to ensuring the child's safety and security, and must be grounded in the best interests and rights of the child concerned, in conformity with the principle of non-discrimination and taking due account of the gender perspective. They should respect fully the child's right to be consulted and to have his/her views duly taken into account in accordance with his/her evolving capacities, and on the basis of his/her access to all necessary information. Every effort should be made to enable such consultation and information provision to be carried out in the child's preferred language.

6. bis In applying the present Guidelines, determination of the best interests of the child shall be designed to identify courses of action for children deprived of parental care, or at risk of being so, that are best suited to satisfying their needs and rights, taking into account the full and personal development of their rights in their family, social and cultural environment and their status as subjects of rights, both at the time of the determination and in the longer term. The determination process should take account of, inter alia, the right of the child to be heard and to have his/her views taken into account in accordance with his/her age and maturity.

7. States should develop and implement comprehensive child welfare and protection policies within the framework of their overall social and human development policy, with attention to the improvement of existing alternative care provision, reflecting the principles contained in the present Guidelines.

8. As part of efforts to prevent separation of children from their parents, States should seek to ensure appropriate and culturally sensitive measures:

(a) To support family caregiving environments whose capacities are limited by factors such as disabilities; drug and alcohol misuse; discrimination against families with indigenous or minority backgrounds; and those living in armed conflict regions or under foreign occupation;

(b) To provide appropriate care and protection for vulnerable children, such as child victims of abuse and exploitation; abandoned children; children living on the street; children born out of wedlock; unaccompanied and separated children; internally displaced and refugee children; children of migrant workers; children of asylum-seekers; or children living with or affected by HIV/AIDS and other serious illnesses.

9. Special efforts should be made to tackle discrimination on the basis of any status of the child or parents, including poverty, ethnicity, religion, sex, mental and physical disability, HIV/AIDS status or other serious illnesses, whether physical or mental, birth out of wedlock, and socio-economic stigma, and all other statuses and circumstances that can give rise to relinquishment, abandonment and/or removal of a child.

## B. Alternative care

10. All decisions concerning alternative care should take full account of the desirability, in principle, of maintaining the child as close as possible to his/her habitual place of residence, in order to facilitate contact and potential reintegration

with his/her family and to minimize disruption of his/her educational, cultural and social life.

11. Decisions regarding children in alternative care, including those in informal care, should have due regard for the importance of ensuring children a stable home and of meeting their basic need for safe and continuous attachment to their caregivers, with permanency generally being a key goal.

12. Children must be treated with dignity and respect at all times and must benefit from effective protection from abuse, neglect and all forms of exploitation, whether on the part of care providers, peers or third parties, in whatever care setting they may find themselves.

13. Removal of a child from the care of the family should be seen as a measure of last resort and should be, whenever possible, temporary and for the shortest possible duration. Removal decisions should be regularly reviewed and the child's return to parental care, once the original causes of removal have been resolved or have disappeared, should be in the child's best interests, in keeping with the assessment foreseen in paragraph 48 below.

14. Financial and material poverty, or conditions directly and uniquely imputable to such poverty, should never be the only justification for the removal of a child from parental care, for receiving a child into alternative care, or for preventing his/her reintegration, but should be seen as a signal for the need to provide appropriate support to the family.

15. Attention must be paid to promoting and safeguarding all other rights of special pertinence to the situation of children without parental care, including, but not limited to, access to education, health and other basic services, the right to identity, freedom of religion or belief, language and protection of property and inheritance rights.

16. Siblings with existing bonds should in principle not be separated by placements in alternative care unless there is a clear risk of abuse or other justification in the best interests of the child. In any case, every effort should be made to enable siblings to maintain contact with each other, unless this is against their wishes or interests.

17. Recognizing that, in most countries, the majority of children without parental care are looked after informally by relatives or others, States should seek to devise appropriate means, consistent with the present Guidelines, to ensure their welfare and protection while in such informal care arrangements, with due respect for cultural, economic, gender and religious differences and practices that do not conflict with the rights and best interests of the child.

18. No child should be without the support and protection of a legal guardian or other recognized responsible adult or competent public body at any time.

19. The provision of alternative care should never be undertaken with a prime purpose of furthering the political, religious or economic goals of the providers.

20. Use of residential care should be limited to cases where such a setting is specifically appropriate, necessary and constructive for the individual child concerned and in his/her best interests.

21. In accordance with the predominant opinion of experts, alternative care for young children, especially those under the age of 3 years, should be provided in family-based settings. Exceptions to this principle may be warranted in order to prevent the separation of siblings and in cases where the placement is of an emergency nature or is for a predetermined and very limited duration, with planned family reintegration or other appropriate long-term care solution as its outcome.

22. While recognizing that residential care facilities and family-based care complement each other in meeting the needs of children, where large residential care facilities (institutions) remain, alternatives should be developed in the context of an overall deinstitutionalization strategy, with precise goals and objectives, which will allow for their progressive elimination. To this end, States should establish care standards to ensure the quality and conditions that are conducive to the child's development, such as individualized and small-group care, and should evaluate existing facilities against these standards. Decisions regarding the establishment of, or permission to establish, new residential care facilities, whether public or private, should take full account of this deinstitutionalization objective and strategy.

**Measures to promote application**

23. States should, to the maximum extent of their available resources and, where appropriate, in the framework of development cooperation, allocate human and financial resources to ensure the optimal and progressive implementation of the present Guidelines throughout their respective territories in a timely manner. States should facilitate active cooperation among all relevant authorities and the mainstreaming of child and family welfare issues within all ministries directly or indirectly concerned.

24. States are responsible for determining any need for, and requesting, international cooperation in implementing the present Guidelines. Such requests should be given due consideration and should receive a favourable response wherever possible and appropriate. The enhanced implementation of the present Guidelines should figure in development cooperation programmes. When providing assistance to a State, foreign entities should abstain from any initiative inconsistent with the Guidelines.

25. Nothing in the present Guidelines should be interpreted as encouraging or condoning lower standards than those that may exist in given States, including in their legislation. Similarly, competent authorities, professional organizations and others are encouraged to develop national or professionally specific guidelines that build upon the letter and spirit of the present Guidelines.

## III. Scope of the Guidelines

26. The present Guidelines apply to the appropriate use and conditions of alternative formal care for all persons under the age of 18 years, unless under the law applicable to the child majority is attained earlier. Only where indicated do the Guidelines also apply to informal care settings, having due regard for both the important role played by the extended family and community and the obligations of States for all children not in the care of their parents or legal and customary caregivers, as set out in the Convention on the Rights of the Child.

27. Principles in the present Guidelines are also applicable, as appropriate, to young persons already in alternative care and who need continuing care or support for a transitional period after reaching the age of majority under applicable law.

28. For the purposes of the present Guidelines, and subject notably to the exceptions listed in paragraph 29 below, the following definitions shall apply:

(a) Children without parental care: all children not in the overnight care of at least one of their parents, for whatever reason and under whatever circumstances. Children without parental care who are outside their country of habitual residence or victims of emergency situations may be designated as:

"Unaccompanied" if they are not cared for by another relative or an adult who by law or custom is responsible for doing so; or

"Separated" if they are separated from a previous legal or customary primary caregiver, but who may nevertheless be accompanied by another relative.

(b) Alternative care may take the form of:

Informal care: any private arrangement provided in a family environment, whereby the child is looked after on an ongoing or indefinite basis by relatives or friends (informal kinship care) or by others in their individual capacity, at the initiative of the child, his/her parents or other person without this arrangement having been ordered by an administrative or judicial authority or a duly accredited body;

Formal care: all care provided in a family environment which has been ordered by a competent administrative body or judicial authority, and all care provided in a residential environment, including in private facilities, whether or not as a result of administrative or judicial measures.

(c) With respect to the environment where it is provided, alternative care may be:

Kinship care: family-based care within the child's extended family or with close friends of the family known to the child, whether formal or informal in nature;

Foster care: situations where children are placed by a competent authority for the purpose of alternative care in the domestic environment of a family other than the children's own family, that has been selected, qualified, approved and supervised for providing such care;

Other forms of family-based or family-like care placements;

Residential care: care provided in any non-family-based group setting, such as places of safety for emergency care, transit centres in emergency situations, and all other short- and long-term residential care facilities including group homes;

Supervised independent living arrangements for children.

(d) With respect to those responsible for alternative care:

Agencies are the public or private bodies and services that organize alternative care for children;

Facilities are the individual public or private establishments that provide residential care for children.

29. The scope of alternative care as foreseen in the present Guidelines does not extend, however, to:

(a) Persons under the age of 18 years who are deprived of their liberty by decision of a judicial or administrative authority as a result of being alleged as, accused of or recognized as having infringed the law, and whose situation is covered by the United Nations Standard Minimum Rules for the Administration of Juvenile Justice and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty;

(b) Care by adoptive parents from the moment the child concerned is effectively placed in their custody pursuant to a final adoption order, as of which moment, for the purposes of the present Guidelines, the child is considered to be in parental care. The Guidelines are, however, applicable to pre-adoption or probationary placement of a child with the prospective adoptive parents, as far as they are compatible with requirements governing such placements as stipulated in other relevant international instruments;

(c) Informal arrangements whereby a child voluntarily stays with relatives or friends for recreational purposes and reasons not connected with the parents' general inability or unwillingness to provide adequate care.

30. Competent authorities and others concerned are also encouraged to make use of the present Guidelines, as applicable, at boarding schools, hospitals, centres for children with mental and physical disabilities or other special needs, camps, the workplace and other places which may be responsible for the care of children.

## IV. Preventing the need for alternative care

### A. Promoting parental care

31. States should pursue policies that ensure support for families in meeting their responsibilities towards the child and promote the right of the child to have a relationship with both parents. These policies should address the root causes of child abandonment, relinquishment and separation of the child from his/her family by ensuring, inter alia, the right to birth registration, access to adequate housing and to basic health, education and social welfare services, as well as by promoting measures to combat poverty, discrimination, marginalization, stigmatization, violence, child maltreatment and sexual abuse, and substance abuse.

32. States should develop and implement consistent and mutually reinforcing family-oriented policies designed to promote and strengthen parents' ability to care for their children.

33. States should implement effective measures to prevent child abandonment, relinquishment and separation of the child from his/her family. Social policies and programmes should, inter alia, empower families with attitudes, skills, capacities and tools to enable them to provide adequately for the protection, care and development of their children. The complementary capacities of the State and civil society, including non-governmental and community based organizations, religious

leaders and the media should be engaged to this end. These social protection measures should include:

(a) Family strengthening services, such as parenting courses and sessions, the promotion of positive parent-child relationships, conflict resolution skills, opportunities for employment, income-generation and, where required, social assistance;

(b) Supportive social services, such as day care, mediation and conciliation services, substance abuse treatment, financial assistance, and services for parents and children with disabilities. Such services, preferably of an integrated and non-intrusive nature, should be directly accessible at community level and should actively involve the participation of families as partners, combining their resources with those of the community and the carer;

(c) Youth policies aiming at empowering youth to face positively the challenges of everyday life, including when they decide to leave the parental home, and preparing future parents to make informed decisions regarding their sexual and reproductive health and to fulfil their responsibilities in this respect.

34. Various complementary methods and techniques should be used for family support, varying throughout the process of support, such as home visits, group meetings with other families, case conferences and securing commitments by the family concerned. They should be directed towards both facilitating intrafamilial relationships and promoting the family's integration within its community.

35. Special attention should be paid, in accordance with local laws, to the provision and promotion of support and care services for single and adolescent parents and their children, whether or not born out of wedlock. States should ensure that adolescent parents retain all rights inherent to their status both as parents and as children, including access to all appropriate services for their own development, allowances to which parents are entitled, and their inheritance rights. Measures should be adopted to ensure the protection of pregnant adolescents and to guarantee that they do not interrupt their studies. Efforts should also be made to reduce stigma attached to single and adolescent parenthood.

36. Support and services should be available to siblings who have lost their parents or caregivers and choose to remain together in their household, to the extent that the eldest sibling is both willing and deemed capable of acting as the household head. States should ensure, including through the appointment of a legal guardian, a recognized responsible adult or, where appropriate, a public body legally mandated to act as guardian, as stipulated in paragraph 18 above, that such households benefit from mandatory protection from all forms of exploitation and abuse, and supervision and support on the part of the local community and its competent services, such as social workers, with particular concern for the children's health, housing, education and inheritance rights. Special attention should be given to ensuring the head of such a household retains all rights inherent to his/her child status, including access to education and leisure, in addition to his/her rights as a household head.

37. States should ensure opportunities for day care, including all-day schooling, and respite care which would enable parents better to cope with their overall responsibilities towards the family, including additional responsibilities inherent in caring for children with special needs.

**Preventing family separation**

38. Proper criteria based on sound professional principles should be developed and consistently applied for assessing the child's and family's situation, including the family's actual and potential capacity to care for the child, in cases where the competent authority or agency has reasonable grounds to believe that the well-being of the child is at risk.

39. Decisions regarding removal or reintegration should be based on this assessment and made by suitably qualified and trained professionals, on behalf of or authorized by a competent authority, in full consultation with all concerned and bearing in mind the need to plan for the child's future.

40. States are encouraged to adopt measures for the integral protection and guarantee of rights during pregnancy, birth and the breastfeeding period, in order to ensure conditions of dignity and equality for the adequate development of the pregnancy and care of the child. Therefore, support programmes should be provided to future mothers and fathers, particularly adolescent parents, who have difficulties in exercising their parental responsibilities. Such programmes should aim at empowering mothers and fathers to exercise their parental responsibilities in conditions of dignity, and at avoiding their being induced to surrender their child because of their vulnerability.

41. When a child is relinquished or abandoned, States should ensure that this may take place in conditions of confidentiality and safety for the child, respecting his/her right to access information on his/her origins where appropriate and possible under the law of the State.

42. States should formulate clear policies to address situations where a child has been abandoned anonymously, which indicate whether and how family tracing should be undertaken and reunification or placement within the extended family pursued. Policies should also allow for timely decision-making on the child's eligibility for permanent family placement and for arranging such placements expeditiously.

43. When a public or private agency or facility is approached by a parent or legal guardian wishing to relinquish a child permanently, the State should ensure that the family receives counselling and social support to encourage and enable them to continue to care for the child. If this fails, a social worker or other appropriate professional assessment should be undertaken to determine whether there are other family members who wish to take permanent responsibility for the child, and whether such arrangements would be in the child's best interests. Where such arrangements are not possible or in the child's best interests, efforts should be made to find a permanent family placement within a reasonable period.

44. When a public or private agency or facility is approached by a parent or caregiver wishing to place a child in care for a short or indefinite period, the State should ensure the availability of counselling and social support to encourage and enable them to continue to care for the child. A child should be admitted to alternative care only when such efforts have been exhausted and acceptable and justified reasons for entry into care exist.

45. Specific training should be provided to teachers and others working with children, in order to help them to identify situations of abuse, neglect, exploitation or risk of abandonment and to refer such situations to competent bodies.

46. Any decision to remove a child against the will of his/her parents must be made by competent authorities, in accordance with applicable law and procedures and subject to judicial review, the parents being assured the right of appeal and access to appropriate legal representation.

47. When the child's sole or main carer may be the subject of deprivation of liberty as a result of preventive detention or sentencing decisions, non-custodial remand measures and sentences should be taken in appropriate cases wherever possible, the best interests of the child being given due consideration. States should take into account the best interests of the child when deciding whether to remove children born in prison and children living in prison with a parent. The removal of such children should be treated in the same way as other instances where separation is considered. Best efforts should be made to ensure that children remaining in custody with their parent benefit from adequate care and protection, while guaranteeing their own status as free individuals and access to activities in the community.

### B. Promoting family reintegration

48. In order to prepare and support the child and the family for his/her possible return to the family, his/her situation should be assessed by a duly designated individual or team with access to multidisciplinary advice, in consultation with the different actors involved (the child, the family, the alternative caregiver), so as to decide whether the reintegration of the child in the family is possible and in the best interests of the child, which steps this would involve and under whose supervision.

49. The aims of the reintegration and the family's and alternative caregiver's principal tasks in this respect should be set out in writing and agreed on by all concerned.

50. Regular and appropriate contact between the child and his/her family specifically for the purpose of reintegration should be developed, supported and monitored by the competent body.

51. Once decided, reintegration of the child in his/her family should be designed as a gradual and supervised process, accompanied by follow-up and support measures that take account of the child's age, needs and evolving capacities, as well as the cause of the separation.

## V. Framework of care provision

52. In order to meet the specific psychoemotional, social and other needs of each child without parental care, States should take all necessary measures to ensure that the legislative, policy and financial conditions exist to provide for adequate alternative care options, with priority to family- and community-based solutions.

53. States should ensure the availability of a range of alternative care options, consistent with the general principles of the present Guidelines, for emergency, short-term and long-term care.

54. States should ensure that all entities and individuals engaged in the provision of alternative care for children receive due authorization to do so from a competent authority and be subject to the latter's regular monitoring and review in keeping with the present Guidelines. To this end, these authorities should develop appropriate criteria for assessing the professional and ethical fitness of care providers and for their accreditation, monitoring and supervision.

55. With regard to informal care arrangements for the child, whether within the extended family, with friends or with other parties, States should, where appropriate, encourage such carers to notify the competent authorities accordingly so that they and the child may receive any necessary financial and other support that would promote the child's welfare and protection. Where possible and appropriate, States should encourage and enable informal caregivers, with the consent of the child and parents concerned, to formalize the care arrangement after a suitable lapse of time, to the extent that the arrangement has proved to be in the child's best interests to date and is expected to continue in the foreseeable future.

## VI. Determination of the most appropriate form of care

56. Decision-making on alternative care in the best interests of the child should take place through a judicial, administrative or other adequate and recognized procedure, with legal safeguards, including, where appropriate, legal representation on behalf of children in any legal proceedings. It should be based on rigorous assessment, planning and review, through established structures and mechanisms, and carried out on a case-by-case basis, by suitably qualified professionals in a multidisciplinary team, wherever possible. It should involve full consultation at all stages with the child, according to his/her evolving capacities, and with his/her parents or legal guardians. To this end, all concerned should be provided with the necessary information on which to base their opinion. States should make every effort to provide adequate resources and channels for the training and recognition of the professionals responsible for determining the best form of care so as to facilitate compliance with these provisions.

57. Assessment should be carried out expeditiously, thoroughly and carefully. It should take into account the child's immediate safety and well-being, as well as his/her longer-term care and development, and should cover the child's personal and developmental characteristics, ethnic, cultural, linguistic and religious background, family and social environment, medical history and any special needs.

58. The resulting initial and review reports should be used as essential tools for planning decisions from the time of their acceptance by the competent authorities onwards, with a view to, inter alia, avoiding undue disruption and contradictory decisions.

59. Frequent changes in care setting are detrimental to the child's development and ability to form attachments, and should be avoided. Short-term placements should aim at enabling an appropriate permanent solution to be arranged. Permanency for the child should be secured without undue delay through reintegration in his/her nuclear or extended family or, if this is not possible, in an alternative stable family setting or, where paragraph 20 above applies, in stable and appropriate residential care.

60. Planning for care provision and permanency should be carried out from the earliest possible time, ideally before the child enters care, taking into account the immediate and longer term advantages and disadvantages of each option considered, and should comprise short- and long-term propositions.

61. Planning for care provision and permanency should be based on, notably, the nature and quality of the child's attachment to his/her family; the family's capacity to safeguard the child's well-being and harmonious development; the child's need or desire to feel part of a family; the desirability of the child remaining within his/her community and country; his/her cultural, linguistic and religious background; and relationships with siblings, with a view to avoiding their separation.

62. The plan should clearly state, inter alia, the goals of the placement and the measures to achieve them.

63. The child and his/her parents or legal guardians should be fully informed about the alternative care options available, the implications of each option and their rights and obligations in the matter.

64. The preparation, enforcement and evaluation of a protective measure for a child should be carried out, to the greatest extent possible, with the participation of his/her parents or legal guardians and potential foster carers and caregivers, with respect to his/her particular needs, convictions and special wishes. At the request of the child, parents or legal guardians, other important persons in the child's life may also be consulted in any decision-making process, at the discretion of the competent authority.

65. States should ensure that any child who has been placed in alternative care by a properly constituted court, tribunal or administrative or other competent body, as well as his/her parents or others with parental responsibility, are given the opportunity to make representations on the placement decision before a court, are informed of their rights to make such representations and are assisted in doing so.

66. States should ensure the right of any child who has been placed in temporary care to regular and thorough review — preferably at least every three months — of the appropriateness of his/her care and treatment, taking into account notably his/her personal development and any changing needs, developments in his/her family environment, and the adequacy and necessity of the current placement in these lights. The review should be carried out by duly qualified and authorized persons, and fully involve the child and all relevant persons in the child's life.

67. The child should be prepared for all changes of care settings resulting from the planning and review processes.

## VII. Provision of alternative care

### A. Policies

68. It is a responsibility of the State or appropriate level of government to ensure the development and implementation of coordinated policies regarding formal and informal care for all children who are without parental care. Such policies should be based on sound information and statistical data. They should define a process for determining who has responsibility for a child, taking into account the role of the

child's parents or principal caregivers in his/her protection, care and development. Presumptive responsibility, unless shown to be otherwise, is with the child's parents or principal caregivers.

69. All State entities involved in the referral of, and assistance to, children without parental care, in cooperation with civil society, should adopt policies and procedures which favour information-sharing and networking between agencies and individuals in order to ensure effective care, aftercare and protection for these children. The location and/or design of the agency responsible for the oversight of alternative care should be established so as to maximize its accessibility to those who require the services provided.

70. Special attention should be paid to the quality of alternative care provision, both in residential and family-based care, in particular with regard to the professional skills, selection, training and supervision of carers. Their role and functions should be clearly defined and clarified with respect to those of the child's parents or legal guardians.

71. In each country, the competent authorities should draw up a document setting out the rights of children in alternative care in keeping with the present Guidelines. Children in alternative care should be enabled to understand fully the rules, regulations and objectives of the care setting and their rights and obligations therein.

72. All alternative care provision should be based on a written statement of the provider's aims and objectives in providing the service and the nature of their responsibilities to the child that reflects the standards set by the Convention on the Rights of the Child, the present Guidelines and applicable law. All providers should be appropriately qualified or approved in accordance with legal requirements to provide alternative care services.

73. A regulatory framework should be established to ensure a standard process for the referral or admission of a child to an alternative care setting.

74. Cultural and religious practices regarding provision of alternative care, including those related to gender perspectives, should be respected and promoted to the extent that they can be shown to be consistent with the children's rights and best interests. The process of considering whether such practices should be promoted should be carried out in a broadly participatory way, involving the cultural and religious leaders concerned, professionals and those caring for children without parental care, parents and other relevant stakeholders, as well as the children themselves.

### 1. Informal care

75. With a view to ensuring that appropriate conditions of care are met in informal care provided by individuals or families, States should recognize the role played by this type of care and take adequate measures to support its optimal provision on the basis of an assessment of which particular settings may require special assistance or oversight.

76. Competent authorities should, where appropriate, encourage informal carers to notify the care arrangement and should seek to ensure their access to all available services and benefits likely to assist them in discharging their duty to care for and protect the child.

77. The State should recognize the de facto responsibility of informal carers for the child.

78. States should devise special and appropriate measures designed to protect children in informal care from abuse, neglect, child labour and all other forms of exploitation, with particular attention to informal care provided by non-relatives, by relatives previously unknown to the child or far from the child's habitual place of residence.

## 2. General conditions applying to all forms of formal alternative care arrangements

79. The transfer of a child into alternative care should be carried out with the utmost sensitivity and in a child friendly manner, in particular involving specially trained and, in principle, non-uniformed personnel.

80. When a child is placed in alternative care, contact with his/her family, as well as with other persons close to him or her, such as friends, neighbours and previous carers, should be encouraged and facilitated, in keeping with the child's protection and best interests. The child should have access to information on the situation of his/her family members in the absence of contact with them.

81. States should pay special attention to ensuring that children in alternative care because of parental imprisonment or prolonged hospitalization have the opportunity to maintain contact with their parents and receive any necessary counselling and support in that regard.

82. Carers should ensure that children receive adequate amounts of wholesome and nutritious food in accordance with local dietary habits and relevant dietary standards, as well as with the child's religious beliefs. Appropriate nutritional supplementation should also be provided when necessary.

83. Carers should promote the health of the children for whom they are responsible and make arrangements to ensure that medical care, counselling and support are made available as required.

84. Children should have access to formal, non-formal and vocational education in accordance with their rights, to the maximum extent possible in educational facilities in the local community.

85. Carers should ensure that the right of every child, including children with disabilities, living with or affected by HIV/AIDS or having any other special needs, to develop through play and leisure activities is respected and that opportunities for such activities are created within and outside the care setting. Contacts with the children and others in the local community should be encouraged and facilitated.

86. The specific safety, health, nutritional, developmental and other needs of babies and young children, including those with special needs, should be catered for in all care settings, including ensuring their ongoing attachment to a specific carer.

87. Children should be allowed to satisfy the needs of their religious and spiritual life, including by receiving visits from a qualified representative of their religion, and to freely decide to participate or not in religious services, religious education or counselling. The child's own religious background should be respected, and no child should be encouraged or persuaded to change his/her religion or belief during a care placement.

88. All adults responsible for children should respect and promote the right to privacy, including appropriate facilities for hygiene and sanitary needs, respecting gender differences and interaction, and adequate, secure and accessible storage space for personal possessions.

89. Carers should understand the importance of their role in developing positive, safe and nurturing relationships with children, and be able to do so.

90. Accommodation in all alternative care settings should meet the requirements of health and safety.

91. States must ensure through their competent authorities that accommodation provided to children in alternative care, and their supervision in such placements, enable them to be effectively protected against abuse. Particular attention needs to be paid to the age, maturity and degree of vulnerability of each child in determining his/her living arrangements. Measures aimed at protecting children in care should be in conformity with the law and not involve unreasonable constraints on their liberty and conduct in comparison with children of similar age in their community.

92. All alternative care settings should provide adequate protection to children from abduction, trafficking, sale and all other forms of exploitation. Any consequent constraints on their liberty and conduct should be no more than are strictly necessary to ensure their effective protection from such acts.

93. All carers should promote and encourage children and young people to develop and exercise informed choices, taking account of acceptable risks and the child's age, and according to his/her evolving capacities.

94. States, agencies and facilities, schools and other community services should take appropriate measures to ensure that children in alternative care are not stigmatized during or after their placement. This should include efforts to minimize the identification of the child as being looked after in an alternative care setting.

95. All disciplinary measures and behaviour management constituting torture, cruel, inhuman or degrading treatment, including closed or solitary confinement or any other forms of physical or psychological violence that are likely to compromise the physical or mental health of the child, must be strictly prohibited in conformity with international human rights law. States must take all necessary measures to prevent such practices and ensure that they are punishable by law. Restriction of contact with members of the child's family and other persons of special importance to the child should never be used as a sanction.

96. Use of force and restraints of whatever nature should not be authorized unless strictly necessary for safeguarding the child's or others' physical or psychological integrity, in conformity with the law and in a reasonable and proportionate manner and with respect for the fundamental rights of the child. Restraint by means of drugs and medication should be based on therapeutic needs and should never be employed without evaluation and prescription by a specialist.

97. Children in care should be offered access to a person of trust in whom they may confide in total confidentiality. This person should be designated by the competent authority with the agreement of the child concerned. The child should be informed that legal or ethical standards may require breaching confidentiality under certain circumstances.

98. Children in care should have access to a known, effective and impartial mechanism whereby they can notify complaints or concerns regarding their treatment or conditions of placement. Such mechanisms should include initial consultation, feedback, implementation and further consultation. Young people with previous care experience should be involved in this process, due weight being given to their opinions. This process should be conducted by competent persons trained to work with children and young people.

99. To promote the child's sense of self-identity, a life story book comprising appropriate information, pictures, personal objects and mementoes regarding each step of the child's life should be maintained with the child's participation and made available to the child throughout his/her life.

## B. Legal responsibility for the child

100. In situations where the child's parents are absent or are incapable of making day-to-day decisions in the best interests of the child, and the child's placement in alternative care has been ordered or authorized by a competent administrative body or judicial authority, a designated individual or competent entity should be vested with the legal right and responsibility to make such decisions in the place of parents, in full consultation with the child. States should ensure that a mechanism is in place for designating such an individual or entity.

101. Such legal responsibility should be attributed by the competent authorities and be supervised directly by them or through formally accredited entities, including non-governmental organizations. Accountability for the actions of the individual or entity concerned should lie with the designating body.

102. Persons exercising such legal responsibility should be reputable individuals with relevant knowledge of children's issues, an ability to work directly with children, and an understanding of any special and cultural needs of the children to be entrusted to them. They should receive appropriate training and professional support in this regard. They should be in a position to make independent and impartial decisions that are in the best interests of the children concerned and that promote and safeguard each child's welfare.

103. The role and specific responsibilities of the designated person or entity should include:

(a) Ensuring that the rights of the child are protected and that, in particular, the child has appropriate care, accommodation, health-care provision, developmental opportunities, psychosocial support, education and language support;

(b) Ensuring that the child has access to legal and other representation where necessary, consulting with the child so that the child's views are taken into account by decision-making authorities, and advising and keeping the child informed of his/her rights;

(c) Contributing to the identification of a stable solution in the child's best interests;

(d) Providing a link between the child and various organizations that may provide services to the child;

(e) Assisting the child in family tracing;

(f) Ensuring that, if repatriation or family reunification is carried out, it is done in the best interests of the child;

(g) Helping the child to keep in touch with his/her family, when appropriate.

### I. Agencies and facilities responsible for formal care

104. Legislation should stipulate that all agencies and facilities must be registered and authorized to operate by social welfare services or another competent authority, and that failure to comply with such legislation constitutes an offence punishable by law. Authorization should be granted and regularly reviewed by the competent authorities on the basis of standard criteria covering, at a minimum, the agency's or facility's objectives, functioning, staff recruitment and qualifications, conditions of care and financial resources and management.

105. All agencies and facilities should have written policy and practice statements consistent with the present Guidelines, setting out clearly their aims, policies, methods and the standards applied for the recruitment, monitoring, supervision and evaluation of qualified and suitable carers to ensure that those aims are met.

106. All agencies and facilities should develop a staff code of conduct, consistent with the present Guidelines, that defines the role of each professional and of the carers in particular and includes clear reporting procedures on allegations of misconduct by any team member.

107. The forms of financing care provision should never be such as to encourage a child's unnecessary placement or prolonged stay in care arrangements organized or provided by an agency or facility.

108. Comprehensive and up-to-date records should be maintained regarding the administration of alternative care services, including detailed files on all children in their care, staff employed and financial transactions.

109. The records on children in care should be complete, up to date, confidential and secure, and include information on their admission and departure and the form, content and details of the care placement of each child, together with any appropriate identity documents and other personal information. Information on the child's family should be included in the child's file as well as in the reports based on regular evaluations. This record should follow the child throughout the alternative care period and be consulted by duly authorized professionals responsible for his/her current care.

110. The above-mentioned records could be made available to the child, as well as to the parents or guardians, within the limits of the child's right to privacy and confidentiality, as appropriate. Appropriate counselling should be provided before, during and after consultation of the record.

111. All alternative care services should have a clear policy on maintaining the confidentiality of information pertaining to each child, which all carers are aware of and adhere to.

112. As a matter of good practice, all agencies and facilities should systematically ensure that, prior to employment, carers and other staff in direct contact with children undergo an appropriate and comprehensive assessment of their suitability to work with children.

113. Conditions of work, including remuneration, for carers employed by agencies and facilities should be such as to maximize motivation, job satisfaction and continuity, and hence their disposition to fulfil their role in the most appropriate and effective manner.

114. Training should be provided to all carers on the rights of children without parental care and on the specific vulnerability of children, in particularly difficult situations, such as emergency placements or placements outside their area of habitual residence. Cultural, social, gender and religious sensitization should also be assured. States should also provide adequate resources and channels for the recognition of these professionals in order to favour the implementation of these provisions.

115. Training in dealing appropriately with challenging behaviour, including conflict resolution techniques and means to prevent acts of harm or self-harm, should be provided to all care staff employed by agencies and facilities.

116. Agencies and facilities should ensure that, wherever appropriate, carers are prepared to respond to children with special needs, notably those living with HIV/AIDS or other chronic physical or mental illnesses, and children with physical or mental disabilities.

### 2. Foster care

117. The competent authority or agency should devise a system, and should train concerned staff accordingly, to assess and match the needs of the child with the abilities and resources of potential foster carers and to prepare all concerned for the placement.

118. A pool of accredited foster carers should be identified in each locality, who can provide children with care and protection while maintaining ties to family, community and cultural group.

119. Special preparation, support and counselling services for foster carers should be developed and made available to carers at regular intervals, before, during and after the placement.

120. Carers should have, within fostering agencies and other systems involved with children without parental care, the opportunity to make their voice heard and to influence policy.

121. Encouragement should be given to the establishment of associations of foster carers that can provide important mutual support and contribute to practice and policy development.

## C. Residential care

122. Facilities providing residential care should be small and organized around the rights and needs of the child, in a setting as close as possible to a family or small group situation. Their objective should generally be to provide temporary care and to contribute actively to the child's family reintegration or, if this is not possible, to secure his/her stable care in an alternative family setting, including through adoption or *kafala* of Islamic law, where appropriate.

123. Measures should be taken so that, where necessary and appropriate, a child solely in need of protection and alternative care may be accommodated separately from children who are subject to the criminal justice system.

124. The competent national or local authority should establish rigorous screening procedures to ensure that only appropriate admissions to such facilities are made.

125. States should ensure that there are sufficient carers in residential care settings to allow individualized attention and to give the child, where appropriate, the opportunity to bond with a specific carer. Carers should also be deployed within the care setting in such a way as to implement effectively its aims and objectives and ensure child protection.

126. Laws, policies and regulations should prohibit the recruitment and solicitation of children for placement in residential care by agencies, facilities or individuals.

## D. Inspection and monitoring

127. Agencies, facilities and professionals involved in care provision should be accountable to a specific public authority, which should ensure, inter alia, frequent inspections comprising both scheduled and unannounced visits, involving discussion with and observation of the staff and the children.

128. To the extent possible and appropriate, inspection functions should include a component of training and capacity-building for care providers.

129. States should be encouraged to ensure that an independent monitoring mechanism is in place, with due consideration for the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (Paris Principles). The monitoring mechanism should be easily accessible to children, parents and those responsible for children without parental care. The functions of the monitoring mechanism should include:

(a) Consulting in conditions of privacy with children in all forms of alternative care, visiting the care settings in which they live and undertaking investigations into any alleged situation of violation of children's rights in those settings, on complaint or on its own initiative;

(b) Recommending relevant policies to appropriate authorities with the aim of improving the treatment of children deprived of parental care and ensuring that it is in keeping with the preponderance of research findings on child protection, health, development and care;

(c) Submitting proposals and observations concerning draft legislation;

(d) Contributing independently to the reporting process under the Convention on the Rights of the Child, including to periodic State party reports to the Committee on the Rights of the Child with regard to the implementation of the present Guidelines.

## E. Support for aftercare

130. Agencies and facilities should have a clear policy and carry out agreed procedures relating to the planned and unplanned conclusion of their work with children to ensure appropriate aftercare and/or follow-up. Throughout the period of care, they should systematically aim at preparing the child to assume self-reliance

and to integrate fully in the community, notably through the acquisition of social and life skills, which are fostered by participation in the life of the local community.

131. The process of transition from care to aftercare should take into consideration the child's gender, age, maturity and particular circumstances and include counselling and support, notably to avoid exploitation. Children leaving care should be encouraged to take part in the planning of aftercare life. Children with special needs, such as disabilities, should benefit from an appropriate support system, ensuring, inter alia, avoidance of unnecessary institutionalization. Both the public and private sectors should be encouraged, including through incentives, to employ children from different care services, particularly children with special needs.

132. Special efforts should be made to allocate to each child, whenever possible, a specialized person who can facilitate his/her independence when leaving care.

133. Aftercare should be prepared as early as possible in the placement and, in any case, well before the child leaves the care setting.

134. Ongoing educational and vocational training opportunities should be imparted as part of life skill education to young people leaving care in order to help them to become financially independent and generate their own income.

135. Access to social, legal and health services, together with appropriate financial support, should also be provided to young people leaving care and during aftercare.

## VIII. Care provision for children outside their country of habitual residence

### A. Placement of a child for care abroad

136. The present Guidelines should apply to all public and private entities and all persons involved in arrangements for a child to be sent for care to a country other than his/her country of habitual residence, whether for medical treatment, temporary hosting, respite care or any other reason.

137. States concerned should ensure that a designated body has responsibility for determining specific standards to be met regarding, in particular, the criteria for selecting carers in the host country and the quality of care and follow-up, as well as for supervising and monitoring the operation of such schemes.

138. To ensure appropriate international cooperation and child protection in such situations, States are encouraged to ratify or accede to the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children.

### B. Provision of care for a child already abroad

139. The present Guidelines, as well as other relevant international provisions, should apply to all public and private entities and all persons involved in arrangements for a child needing care while in a country other than his/her country of habitual residence, for whatever reason.

140. Unaccompanied or separated children already abroad should in principle enjoy the same level of protection and care as national children in the country concerned.

141. In determining appropriate care provision, the diversity and disparity of unaccompanied or separated children (such as ethnic and migratory background or cultural and religious diversity) should be taken into consideration on a case-by-case basis.

142. Unaccompanied or separated children, including those who arrive irregularly in a country, should not be, in principle, deprived of their liberty solely for having breached any law governing access to and stay within the territory.

143. Child victims of trafficking should neither be detained in police custody nor subjected to penalties for their involvement under compulsion in unlawful activities.

144. As soon as an unaccompanied child is identified, States are strongly encouraged to appoint a guardian or, where necessary, representation by an organization responsible for his/her care and well-being to accompany the child throughout the status determination and decision-making process.

145. As soon as an unaccompanied or separated child is taken into care, all reasonable efforts should be made to trace his/her family and re-establish family ties, when this is in the best interests of the child and would not endanger those involved.

146. In order to assist in planning the future of an unaccompanied or separated child in a manner that best protects his/her rights, relevant State and social service authorities should make all reasonable efforts to procure documentation and information in order to conduct an assessment of the child's risk and social and family conditions in his/her country of habitual residence.

147. Unaccompanied or separated children must not be returned to their country of habitual residence:

(a) If, following the risk and security assessment, there are reasons to believe that the child's safety and security are in danger;

(b) Unless, prior to the return, a suitable caregiver, such as a parent, other relative, other adult caretaker, a Government agency or an authorized agency or facility in the country of origin, has agreed and is able to take responsibility for the child and provide him/her with appropriate care and protection;

(c) If, for other reasons, it is not in their best interests, according to the assessment of the competent authorities.

148. With the above aims in mind, cooperation among States, regions, local authorities and civil society associations should be promoted, strengthened and enhanced.

149. The effective involvement of consular services or, failing that, legal representatives of the country of origin should be foreseen, when this is in the best interests of the child and would not endanger the child or his/her family.

150. Those responsible for the welfare of an unaccompanied or separated child should facilitate regular communication between the child and his/her family, except where this is against the child's wishes or is demonstrably not in his/her best interests.

151. Placement with a view to adoption or *kafala* of Islamic law should not be considered a suitable initial option for an unaccompanied or separated child. States are encouraged to consider this option only after efforts to determine the location of his/her parents, extended family or habitual carers have been exhausted.

## IX. Care in emergency situations

### A. Application of the Guidelines

152. The present Guidelines should continue to apply in emergencies of emergency arising from natural and man-made disasters, including international and non-international armed conflicts, as well as foreign occupation. Individuals and organizations wishing to work on behalf of children without parental care in emergency situations are strongly encouraged to operate in accordance with the Guidelines.

153. In such circumstances, the State or de facto authorities in the region concerned, the international community and all local, national, foreign and international agencies providing or intending to provide child-focused services should pay special attention:

(a) To ensure that all entities and persons involved in responding to unaccompanied or separated children are sufficiently experienced, trained, resourceful and equipped to do so in an appropriate manner;

(b) To develop, as necessary, temporary and long-term family-based care;

(c) To use residential care only as a temporary measure until family-based care can be developed;

(d) To prohibit the establishment of new residential facilities structured to provide simultaneous care to large groups of children on a permanent or long-term basis;

(e) To prevent the cross-border displacement of children, except under the circumstances described in paragraph 159 below;

(f) To make cooperation with family tracing and reintegration efforts mandatory.

#### Preventing separation

154. Organizations and authorities should make every effort to prevent the separation of children from their parents or primary caregivers, unless the best interests of the child so require, and ensure that their actions do not inadvertently encourage family separation by providing services and benefits to children alone rather than to families.

155. Separations initiated by the child's parents or other primary caregivers should be prevented by:

(a) Ensuring that all households have access to basic food and medical supplies and other services, including education;

(b) Limiting the development of residential care options and restricting their use to those situations where it is absolutely necessary.

## B. Care arrangements

156. Communities should be supported to play an active role in monitoring and responding to care and protection issues facing children in their local context.

157. Care within a child's own community, including fostering, should be encouraged, as it provides continuity in socialization and development.

158. As unaccompanied or separated children may be at heightened risk of abuse and exploitation, monitoring and specific support to carers should be foreseen to ensure their protection.

159. Children in emergency situations should not be moved to a country other than that of their habitual residence for alternative care except temporarily for compelling health, medical or safety reasons. In that case, this should be as close as possible to their home, they should be accompanied by a parent or caregiver known to the child, and a clear return plan should be established.

160. Should family reintegration prove impossible within an appropriate period or be deemed contrary to the child's best interests, stable and definitive solutions, such as *kafala* of Islamic law or adoption, should be envisaged; failing this, other long-term options should be considered, such as foster care or appropriate residential care, including group homes and other supervised living arrangements.

## C. Tracing and family reintegration

161. Identifying, registering and documenting unaccompanied or separated children are priorities in any emergency and should be carried out as quickly as possible.

162. Registration activities should be conducted by or under the direct supervision of State authorities and explicitly mandated entities with responsibility for and experience in this task.

163. The confidential nature of the information collected should be respected and systems put in place for safe forwarding and storage of information. Information should only be shared among duly mandated agencies for the purpose of tracing, family reintegration and care.

164. All those engaged in tracing family members or primary legal or customary caregivers should operate within a coordinated system, using standardized forms and mutually compatible procedures, wherever possible. They should ensure that the child and others concerned would not be endangered by their actions.

165. The validity of relationships and the confirmation of the willingness of the child and family members to be reunited must be verified for every child. No action should be taken that may hinder eventual family reintegration, such as adoption, change of name, or movement to places far from the family's likely location, until all tracing efforts have been exhausted.

166. Appropriate records of any placement of a child should be made and kept in a safe and secure manner so that reunification can be facilitated in the future.

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Sixty-fourth session
Third Committee
Agenda item 68
Right of peoples to self-determination

**Algeria, Angola, Armenia, Azerbaijan, Bahrain, Bangladesh, Benin, Brunei Darussalam, Cameroon, China, Congo, Egypt, Eritrea, Iran (Islamic Republic of), Jordan, Kuwait, Lebanon, Malaysia, Mali, Namibia, Niger, Nigeria, Oman, Pakistan, Qatar, Saudi Arabia, Singapore, South Africa, Thailand and United Arab Emirates: draft resolution**

## Universal realization of the right of peoples to self-determination

*The General Assembly*,

*Reaffirming* the importance, for the effective guarantee and observance of human rights, of the universal realization of the right of peoples to self-determination enshrined in the Charter of the United Nations and embodied in the International Covenants on Human Rights,[1] as well as in the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in General Assembly resolution 1514 (XV) of 14 December 1960,

*Welcoming* the progressive exercise of the right to self-determination by peoples under colonial, foreign or alien occupation and their emergence into sovereign statehood and independence,

*Deeply concerned* at the continuation of acts or threats of foreign military intervention and occupation that are threatening to suppress, or have already suppressed, the right to self-determination of peoples and nations,

*Expressing grave concern* that, as a consequence of the persistence of such actions, millions of people have been and are being uprooted from their homes as refugees and displaced persons, and emphasizing the urgent need for concerted international action to alleviate their condition,

*Recalling* the relevant resolutions regarding the violation of the right of peoples to self-determination and other human rights as a result of foreign military

[1] Resolution 2200 A (XXI), annex.



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intervention, aggression and occupation, adopted by the Commission on Human Rights at its sixty-first[2] and previous sessions,

*Reaffirming* its previous resolutions on the universal realization of the right of peoples to self-determination, including resolution 63/163 of 18 December 2008,

*Reaffirming also* its resolution 55/2 of 8 September 2000, containing the United Nations Millennium Declaration, and recalling its resolution 60/1 of 16 September 2005, containing the 2005 World Summit Outcome, which, inter alia, upheld the right to self-determination of peoples under colonial domination and foreign occupation,

*Taking note* of the report of the Secretary-General on the right of peoples to self-determination,[3]

1. *Reaffirms* that the universal realization of the right of all peoples, including those under colonial, foreign and alien domination, to self-determination is a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights;

2. *Declares its firm opposition* to acts of foreign military intervention, aggression and occupation, since these have resulted in the suppression of the right of peoples to self-determination and other human rights in certain parts of the world;

3. *Calls upon* those States responsible to cease immediately their military intervention in and occupation of foreign countries and territories and all acts of repression, discrimination, exploitation and maltreatment, in particular the brutal and inhuman methods reportedly employed for the execution of those acts against the peoples concerned;

4. *Deplores* the plight of millions of refugees and displaced persons who have been uprooted as a result of the aforementioned acts, and reaffirms their right to return to their homes voluntarily in safety and honour;

5. *Requests* the Human Rights Council to continue to give special attention to the violation of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation;

6. *Requests* the Secretary-General to report on the question to the General Assembly at its sixty-fifth session under the item entitled "Right of peoples to self-determination".

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[2] See *Official Records of the Economic and Social Council, 2005, Supplement No. 3* and corrigenda (E/2005/23 and Corr.1 and 2), chap. II, sect. A.

[3] A/64/360.

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Sixty-fourth session
Third Committee
Agenda item 41
**Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions**

**Afghanistan, Andorra, Argentina, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, China, Côte d'Ivoire, Croatia, Cyprus, Denmark, Egypt, Eritrea, Estonia, Fiji, Finland, Georgia, Germany, Honduras, Hungary, Iceland, Italy, Jamaica, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Monaco, Netherlands, New Zealand, Norway, Peru, Poland, Portugal, Republic of Moldova, Romania, Senegal, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland and United Kingdom of Great Britain and Northern Ireland: draft resolution**

## Office of the United Nations High Commissioner for Refugees

*The General Assembly*,

*Having considered* the report of the United Nations High Commissioner for Refugees on the activities of his Office[1] and the report of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees on the work of its sixtieth session[2] and the decisions contained therein,

*Recalling* its previous annual resolutions on the work of the Office of the United Nations High Commissioner for Refugees since its establishment by the General Assembly,

*Expressing its appreciation* for the leadership shown by the High Commissioner, commending the staff and implementing partners of the Office of the High Commissioner for the competent, courageous and dedicated manner in which they discharge their responsibilities, and underlining its strong condemnation of all forms of violence to which humanitarian personnel and United Nations and associated personnel are increasingly exposed,

[1] *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 12* (A/64/12).
[2] Ibid., *Supplement No. 12A* (A/64/12/Add.1).



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1. *Endorses* the report of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees on the work of its sixtieth session;[2]

2. *Welcomes* the important work undertaken by the Office of the United Nations High Commissioner for Refugees and its Executive Committee in the course of the year, which is aimed at strengthening the international protection regime and at assisting Governments in meeting their protection responsibilities;

3. *Reaffirms* the 1951 Convention relating to the Status of Refugees[3] and the 1967 Protocol thereto[4] as the foundation of the international refugee protection regime, recognizes the importance of their full and effective application by States parties and the values they embody, notes with satisfaction that one hundred and forty-seven States are now parties to one instrument or to both, encourages States not parties to consider acceding to those instruments, underlines in particular the importance of full respect for the principle of non-refoulement, and recognizes that a number of States not parties to the international refugee instruments have shown a generous approach to hosting refugees;

4. *Notes* that sixty-five States are now parties to the 1954 Convention relating to the Status of Stateless Persons[5] and that thirty-seven States are parties to the 1961 Convention on the Reduction of Statelessness,[6] encourages States that have not done so to give consideration to acceding to those instruments, notes the work of the High Commissioner in regard to identifying stateless persons, preventing and reducing statelessness and protecting stateless persons, and urges the Office of the High Commissioner to continue to work in this area in accordance with relevant General Assembly resolutions and Executive Committee conclusions;

5. *Takes note* of the sixtieth anniversary of the Geneva Conventions[7] and the fortieth anniversary of the Convention Governing the Specific Aspects of Refugee Problems in Africa,[8] commemorated in 2009;

6. *Re-emphasizes* that the protection of refugees is primarily the responsibility of States, whose full and effective cooperation, action and political resolve are required to enable the Office of the High Commissioner to fulfil its mandated functions, and strongly emphasizes, in this context, the importance of active international solidarity and burden- and responsibility-sharing;

7. *Also re-emphasizes* that prevention and reduction of statelessness are primarily the responsibility of States, in appropriate cooperation with the international community;

8. *Further re-emphasizes* that protection of and assistance to internally displaced persons are primarily the responsibility of States, in appropriate cooperation with the international community;

[3] United Nations, *Treaty Series*, vol. 189, No. 2545.
[4] Ibid., vol. 606, No. 8791.
[5] Ibid., vol. 360, No. 5158.
[6] Ibid., vol. 989, No. 14458.
[7] Ibid., vol. 75, Nos. 970-973.
[8] Ibid., vol. 1001, No. 14691.

9. *Encourages* the Office of the High Commissioner to pursue its efforts to strengthen its capacity to respond adequately to emergencies and thereby ensure a more predictable response to inter-agency commitments in case of emergency;

10. *Takes note* of the current activities of the Office of the High Commissioner related to protection of and assistance to internally displaced persons, including in the context of inter-agency arrangements in this field, emphasizes that such activities should be consistent with relevant General Assembly resolutions and should not undermine the mandate of the Office for refugees and the institution of asylum, and encourages the High Commissioner to continue his dialogue with States on the role of his Office in this regard;

11. *Encourages* the Office of the High Commissioner to work in partnership and in full cooperation with relevant national authorities, United Nations organizations and agencies and international, intergovernmental, regional and non-governmental organizations to contribute to the continued development of humanitarian response capacities at all levels, and recalls the role of the Office of the High Commissioner as the cluster lead for protection, camp coordination and management, and emergency shelter in complex emergencies;

12. *Also encourages* the Office of the High Commissioner, among other relevant United Nations organizations, intergovernmental organizations and humanitarian and development actors, to continue to work with the Office for the Coordination of Humanitarian Affairs of the Secretariat to enhance the coordination, effectiveness and efficiency of humanitarian assistance, as stated in General Assembly resolution 63/139 of 11 December 2008 on the strengthening of the coordination of emergency humanitarian assistance of the United Nations;

13. *Further encourages* the Office of the High Commissioner to engage in and fully implement the objectives of the Delivering as One initiative;

14. *Notes with appreciation* the ongoing implementation of the process of structural and management change undertaken by the Office of the High Commissioner, and encourages the Office to complete the reform process, including the implementation of a results-based management and accountability framework and strategy, as well as human resources reform, and to focus on continuous improvement to enable a more efficient response to the needs of beneficiaries and ensure the effective and transparent use of its resources;

15. *Strongly condemns* attacks on refugees, asylum-seekers and internally displaced persons as well as acts that pose a threat to their personal security and well-being, and calls upon all concerned States and, where applicable, parties involved in an armed conflict to take all necessary measures to ensure respect for human rights and international humanitarian law;

16. *Expresses deep concern* at the increasing number of attacks against humanitarian aid workers and convoys and, in particular, the loss of life of humanitarian personnel working under the most difficult and challenging conditions in order to assist those in need;

17. *Emphasizes* the need for States to ensure that perpetrators of attacks committed on their territory against humanitarian personnel and United Nations and associated personnel do not operate with impunity, and that the perpetrators of such

acts are promptly brought to justice as provided for in national laws and obligations under international law;

18. *Deplores* the refoulement and unlawful expulsion of refugees and asylum-seekers, and calls upon all concerned States to ensure respect for the relevant principles of refugee protection and human rights;

19. *Emphasizes* that international protection of refugees is a dynamic and action-oriented function that is at the core of the mandate of the Office of the High Commissioner and that it includes, in cooperation with States and other partners, the promotion and facilitation of, inter alia, the admission, reception and treatment of refugees in accordance with internationally agreed standards and the ensuring of durable, protection-oriented solutions, bearing in mind the particular needs of vulnerable groups and paying special attention to those with specific needs, and notes in this context that the delivery of international protection is a staff-intensive service that requires adequate staff with the appropriate expertise, especially at the field level;

20. *Affirms* the importance of age, gender and diversity mainstreaming in analysing protection needs and in ensuring the participation of refugees and other persons of concern to the Office of the High Commissioner, as appropriate, in the planning and implementation of programmes of the Office and State policies, and also affirms the importance of according priority to addressing discrimination, gender inequality and the problem of sexual and gender-based violence, recognizing the importance of addressing the protection needs of women and children in particular;

21. *Strongly reaffirms* the fundamental importance and the purely humanitarian and non-political character of the function of the Office of the High Commissioner of providing international protection to refugees and seeking permanent solutions to refugee problems, and recalls that those solutions include voluntary repatriation and, where appropriate and feasible, local integration and resettlement in a third country, while reaffirming that voluntary repatriation, supported, as necessary, by rehabilitation and development assistance to facilitate sustainable reintegration, remains the preferred solution;

22. *Expresses concern* about the particular difficulties faced by the millions of refugees in protracted situations, and emphasizes the need to redouble international efforts and cooperation to find practical and comprehensive approaches to resolving their plight and to realize durable solutions for them, consistent with international law and relevant General Assembly resolutions;

23. *Recognizes* the importance of achieving durable solutions to refugee problems and, in particular, the need to address in this process the root causes of refugee movements in order to avert new flows of refugees;

24. *Welcomes* the initiative of the High Commissioner to convene, in Geneva on 9 and 10 December 2009, the third Dialogue on Protection Challenges, on the theme "Challenges for persons of concern to the Office of the United Nations High Commissioner for Refugees in urban settings";

25. *Recalls* the important role of effective partnerships and coordination in meeting the needs of refugees and in finding durable solutions to their situations, welcomes the efforts under way, in cooperation with countries hosting refugees and

countries of origin, including their respective local communities, relevant United Nations agencies, international and intergovernmental organizations, regional organizations, as appropriate, non-governmental organizations and development actors, to promote a framework for durable solutions, particularly in protracted refugee situations, which includes an approach to sustainable and timely return which encompasses repatriation, reintegration, rehabilitation and reconstruction activities, and encourages States, in cooperation with relevant United Nations agencies, international and intergovernmental organizations, regional organizations, non-governmental organizations and development actors, to support, inter alia, through the allocation of funds, the implementation of such a framework to facilitate an effective transition from relief to development;

26. *Recognizes* that no solution to displacement can be durable unless it is sustainable, and therefore encourages the Office of the High Commissioner to support the sustainability of return and reintegration;

27. *Welcomes* the progress that has been achieved in increasing the number of refugees resettled and the number of States offering opportunities for resettlement, and the contribution that those States make to durable solutions to refugees, and invites interested States, the Office of the High Commissioner and other relevant partners to make use of the Multilateral Framework of Understandings on Resettlement,[9] where appropriate and feasible;

28. *Notes* with appreciation the activities undertaken by States to strengthen the regional initiatives that facilitate cooperative policies and approaches on refugees and encourages States to continue their efforts to comprehensively address the needs of the people who require international protection in their respective regions, including support for host communities that receive large numbers of persons who require international protection;

29. *Also notes* the importance of States and the Office of the High Commissioner discussing and clarifying the role of the Office in mixed migratory flows, in order to better address protection needs in the context of mixed migratory flows, including by safeguarding access to asylum for those in need of international protection, and notes the readiness of the High Commissioner, consistent with his mandate, to assist States in fulfilling their protection responsibilities in this regard;

30. *Emphasizes* the obligation of all States to accept the return of their nationals, calls upon States to facilitate the return of their nationals who have been determined not to be in need of international protection, and affirms the need for the return of persons to be undertaken in a safe and humane manner and with full respect for their human rights and dignity, irrespective of the status of the persons concerned;

31. *Expresses deep concern* over the challenges posed by climate change and environmental degradation to the protection activities of the Office of the High Commissioner and the assistance it provides to vulnerable populations of concern across the globe, particularly in least developed countries, and urges the Office to continue to address such challenges in its work, within its mandate, and in consultation with national authorities and in cooperation with competent agencies in its operations;

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[9] Available from www.unhcr.org.

32. *Notes* the important number of displaced persons in and from Iraq and the serious impact on the social and economic situation of countries in the region, and calls upon the international community to act in a targeted and coordinated manner to provide protection and increased assistance to the persons displaced to enable the countries in the region to strengthen their capacity to respond to their needs in partnership with the Office of the High Commissioner, other United Nations agencies, the International Red Cross and Red Crescent Movement and non-governmental organizations;

33. *Urges* all States and relevant non-governmental and other organizations, in conjunction with the Office of the High Commissioner, in a spirit of international solidarity and burden- and responsibility-sharing, to cooperate and to mobilize resources with a view to enhancing the capacity of and reducing the heavy burden borne by host countries, in particular those that have received large numbers of refugees and asylum-seekers, and calls upon the Office to continue to play its catalytic role in mobilizing assistance from the international community to address the root causes as well as the economic, environmental and social impact of large-scale refugee populations in developing countries, in particular the least developed countries, and countries with economies in transition;

34. *Expresses deep concern* with the existing and potential challenges posed by the world financial and economic crisis to the activities of the Office of the High Commissioner;

35. *Calls upon* the Office of the High Commissioner to further explore ways and means to broaden its donor base, so as to achieve greater burden-sharing by reinforcing cooperation with governmental donors, non-governmental donors and the private sector;

36. *Recognizes* that adequate and timely resources are essential for the Office of the High Commissioner to continue to fulfil the mandate conferred upon it through its statute[10] and by subsequent General Assembly resolutions on refugees and other persons of concern, recalls its resolutions 58/153 of 22 December 2003, 58/270 of 23 December 2003, 59/170 of 20 December 2004, 60/129 of 16 December 2005, 61/137 of 19 December 2006, 62/124 of 18 December 2007 and 63/148 of 18 December 2008 concerning, inter alia, the implementation of paragraph 20 of the statute of the Office, and urges Governments and other donors to respond promptly to annual and supplementary appeals issued by the Office for requirements under its programmes;

37. *Requests* the High Commissioner to report on his activities to the General Assembly at its sixty-fifth session.

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[10] Resolution 428 (V), annex.

United Nations A/C.3/64/L.52*

General Assembly

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2 November 2009

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Sixty-fourth session
Third Committee
Agenda item 41
**Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions**

**Afghanistan, Andorra, Argentina, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, China, Côte d'Ivoire, Croatia, Cyprus, Denmark, Egypt, Eritrea, Estonia, Fiji, Finland, Georgia, Germany, Honduras, Hungary, Iceland, Italy, Jamaica, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Monaco, Netherlands, New Zealand, Norway, Peru, Poland, Portugal, Republic of Moldova, Romania, Senegal, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland and United Kingdom of Great Britain and Northern Ireland: draft resolution**

## Office of the United Nations High Commissioner for Refugees

*The General Assembly,*

*Having considered* the report of the United Nations High Commissioner for Refugees on the activities of his Office[1] and the report of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees on the work of its sixtieth session[2] and the decisions contained therein,

*Recalling* its previous annual resolutions on the work of the Office of the United Nations High Commissioner for Refugees since its establishment by the General Assembly,

*Expressing its appreciation* for the leadership shown by the High Commissioner, commending the staff and implementing partners of the Office of the High Commissioner for the competent, courageous and dedicated manner in which they discharge their responsibilities, and underlining its strong condemnation of all forms of violence to which humanitarian personnel and United Nations and associated personnel are increasingly exposed,

* Reissued for technical reasons.

[1] *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 12* (A/64/12).

[2] Ibid., *Supplement No. 12A* (A/64/12/Add.1).

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1. *Endorses* the report of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees on the work of its sixtieth session;[1]

2. *Welcomes* the important work undertaken by the Office of the United Nations High Commissioner for Refugees and its Executive Committee in the course of the year, which is aimed at strengthening the international protection regime and at assisting Governments in meeting their protection responsibilities;

3. *Reaffirms* the 1951 Convention relating to the Status of Refugees[2] and the 1967 Protocol thereto[3] as the foundation of the international refugee protection regime, recognizes the importance of their full and effective application by States parties and the values they embody, notes with satisfaction that one hundred and forty-seven States are now parties to one instrument or to both, encourages States not parties to consider acceding to those instruments, underlines in particular the importance of full respect for the principle of non-refoulement, and recognizes that a number of States not parties to the international refugee instruments have shown a generous approach to hosting refugees;

4. *Notes* that sixty-five States are now parties to the 1954 Convention relating to the Status of Stateless Persons[4] and that thirty-seven States are parties to the 1961 Convention on the Reduction of Statelessness,[5] encourages States that have not done so to give consideration to acceding to those instruments, notes the work of the High Commissioner in regard to identifying stateless persons, preventing and reducing statelessness and protecting stateless persons, and urges the Office of the High Commissioner to continue to work in this area in accordance with relevant General Assembly resolutions and Executive Committee conclusions;

5. *Takes note* of the sixtieth anniversary of the Geneva Conventions[7] and the fortieth anniversary of the Convention Governing the Specific Aspects of Refugee Problems in Africa,[8] commemorated in 2009;

6. *Re-emphasizes* that the protection of refugees is primarily the responsibility of States, whose full and effective cooperation, action and political resolve are required to enable the Office of the High Commissioner to fulfil its mandated functions, and strongly emphasizes, in this context, the importance of active international solidarity and burden- and responsibility-sharing;

7. *Also re-emphasizes* that prevention and reduction of statelessness are primarily the responsibility of States, in appropriate cooperation with the international community;

8. *Further re-emphasizes* that protection of and assistance to internally displaced persons are primarily the responsibility of States, in appropriate cooperation with the international community;

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[1] United Nations, *Treaty Series*, vol. 189, No. 2545.
[2] Ibid., vol. 606, No. 8791.
[3] Ibid., vol. 360, No. 5158.
[4] Ibid., vol. 989, No. 14458.
[5] Ibid., vol. 75, Nos. 970-973.
[6] Ibid., vol. 1001, No. 14691.

9. *Encourages* the Office of the High Commissioner to pursue its efforts to strengthen its capacity to respond adequately to emergencies and thereby ensure a more predictable response to inter-agency commitments in case of emergency;

10. *Takes note* of the current activities of the Office of the High Commissioner related to protection of and assistance to internally displaced persons, including in the context of inter-agency arrangements in this field, emphasizes that such activities should be consistent with relevant General Assembly resolutions and should not undermine the mandate of the Office for refugees and the institution of asylum, and encourages the High Commissioner to continue his dialogue with States on the role of his Office in this regard;

11. *Encourages* the Office of the High Commissioner to work in partnership and in full cooperation with relevant national authorities, United Nations offices and agencies, international and intergovernmental organizations, regional organizations and non-governmental organizations to contribute to the continued development of humanitarian response capacities at all levels, and recalls the role of the Office of the High Commissioner as the cluster lead for protection, camp coordination and management, and emergency shelter in complex emergencies;

12. *Also encourages* the Office of the High Commissioner, among other relevant United Nations and other relevant intergovernmental organizations and humanitarian and development actors, to continue to work with the Office for the Coordination of Humanitarian Affairs of the Secretariat to enhance the coordination, effectiveness and efficiency of humanitarian assistance, as stated in General Assembly resolution 63/139 of 11 December 2008 on the strengthening of the coordination of emergency humanitarian assistance of the United Nations;

13. *Further encourages* the Office of the High Commissioner to engage in and implement in full the objectives of the Delivering as One initiative;

14. *Notes with appreciation* the ongoing implementation of the process of structural and management change undertaken by the Office of the High Commissioner, and encourages the Office to complete the implementation of the reforms process, including the implementation of a results-based management and accountability framework and strategy, as well as human resources reform, and to focus on continuous improvement to enable a more efficient response to the needs of beneficiaries and ensure the effective and transparent use of its resources;

15. *Strongly condemns* attacks on refugees, asylum-seekers and internally displaced persons as well as acts that pose a threat to their personal security and well-being, and calls upon all concerned States and, where applicable, parties involved in an armed conflict to take all necessary measures to ensure respect for human rights and international humanitarian law;

16. *Expresses deep concern* with the increasing number of attacks against humanitarian aid workers and convoys and, in particular, the loss of life of humanitarian personnel working in the most difficult and challenging conditions in order to assist those in need;

17. *Emphasizes* the need for States to ensure that perpetrators of attacks committed on their territory against humanitarian personnel and United Nations and associated personnel do not operate with impunity, and that the perpetrators of such

acts are promptly brought to justice as provided for by national laws and obligations under international law;

18. *Deplores* the refoulement and unlawful expulsion of refugees and asylum-seekers, and calls upon all concerned States to ensure respect for the relevant principles of refugee protection and human rights;

19. *Emphasizes* that international protection of refugees is a dynamic and action-oriented function that is at the core of the mandate of the Office of the High Commissioner and that it includes, in cooperation with States and other partners, the promotion and facilitation of, inter alia, the admission, reception and treatment of refugees in accordance with internationally agreed standards and the ensuring of durable, protection-oriented solutions, bearing in mind the particular needs of vulnerable groups and paying special attention to those with specific needs, and notes in this context that the delivery of international protection is a staff-intensive service that requires adequate staff with the appropriate expertise, especially at the field level;

20. *Affirms* the importance of age, gender and diversity mainstreaming in analysing protection needs and in ensuring the participation of refugees and other persons of concern to the Office of the High Commissioner, as appropriate, in the planning and implementation of programmes of the Office and State policies, and also affirms the importance of according priority to addressing discrimination, gender inequality and the problem of sexual and gender-based violence, recognizing the importance of addressing the protection needs of women and children in particular;

21. *Strongly reaffirms* the fundamental importance and the purely humanitarian and non-political character of the function of the Office of the High Commissioner of providing international protection to refugees and seeking permanent solutions to refugee problems, and recalls that those solutions include voluntary repatriation and, where appropriate and feasible, local integration and resettlement in a third country, while reaffirming that voluntary repatriation, supported, as necessary, by rehabilitation and development assistance to facilitate sustainable reintegration, remains the preferred solution;

22. *Expresses concern* about the particular difficulties faced by the millions of refugees in protracted situations, and emphasizes the need to redouble international efforts and cooperation to find practical and comprehensive approaches to resolving their plight and to realize durable solutions for them, consistent with international law and relevant General Assembly resolutions;

23. *Recognizes* the importance of achieving durable solutions to refugee problems and, in particular, the need to address in this process the root causes of refugee movements in order to avert new flows of refugees;

24. *Welcomes* the initiative of the High Commissioner to convene, in Geneva on 9 and 10 December 2009, the third Dialogue on Protection Challenges, on the theme "Challenges for persons of concern to the Office of the United Nations High Commissioner for Refugees in urban settings";

25. *Recalls* the important role of effective partnerships and coordination in meeting the needs of refugees and in finding durable solutions to their situations, welcomes the efforts under way, in cooperation with countries hosting refugees and

countries of origin, including their respective local communities, relevant United Nations agencies, international and intergovernmental organizations, regional organizations, as appropriate, non-governmental organizations and development actors, to promote a framework for durable solutions, particularly in protracted refugee situations, which includes an approach to sustainable and timely return which encompasses repatriation, reintegration, rehabilitation and reconstruction activities, and encourages States, in cooperation with relevant United Nations agencies, international and intergovernmental organizations, regional organizations, non-governmental organizations and development actors, to support, inter alia, through the allocation of funds, the implementation of such a framework to facilitate an effective transition from relief to development,

26. *Recognizes* that no solution to displacement can be durable unless it is sustainable, and therefore encourages the Office of the High Commissioner to support the sustainability of return and reintegration;

27. *Welcomes* the progress that has been achieved in increasing the number of refugees resettled and the number of States offering opportunities for resettlement, and the contribution that those States make to durable solutions to refugees, and invites interested States, the Office of the High Commissioner and other relevant partners to make use of the Multilateral Framework of Understandings on Resettlement,[9] where appropriate and feasible;

28. *Notes* with appreciation the activities undertaken by States to strengthen the regional initiatives that facilitate cooperative policies and approaches on refugees and encourages States to continue their efforts to address, in a comprehensive manner, the needs of the people who require international protection in their respective regions, including the support provided for host communities that receive large numbers of persons who require international protection;

29. *Also notes* the importance of States and the Office of the High Commissioner discussing and clarifying the role of the Office in mixed migratory flows, in order to better address protection needs in the context of mixed migratory flows, including by safeguarding access to asylum for those in need of international protection, and notes the readiness of the High Commissioner, consistent with his mandate, to assist States in fulfilling their protection responsibilities in this regard;

30. *Emphasizes* the obligation of all States to accept the return of their nationals, calls upon States to facilitate the return of their nationals who have been determined not to be in need of international protection, and affirms the need for the return of persons to be undertaken in a safe and humane manner and with full respect for their human rights and dignity, irrespective of the status of the persons concerned;

31. *Expresses deep concern* over the challenges posed by climate change and environmental degradation to the protection activities of the Office of the High Commissioner and the assistance it provides to vulnerable populations of concern across the globe, particularly in least developed countries, and urges the Office to continue to address such challenges in its work, within its mandate, and in consultation with national authorities and in cooperation with competent agencies in its operations;

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[9] Available from www.unhcr.org.

32. *Notes* the important number of displaced in and from Iraq and its serious impact on the social and economic situation of countries in the region, and calls upon the international community to act in a targeted and coordinated manner to provide protection and increased assistance to the persons displaced to enable the countries in the region to strengthen their capacity to respond to the needs in partnership with the Office of the High Commissioner, other United Nations agencies, the International Red Cross and Red Crescent Movement and non-governmental organizations;

33. *Urges* all States and relevant non-governmental and other organizations, in conjunction with the Office of the High Commissioner, in a spirit of international solidarity and burden- and responsibility-sharing, to cooperate and to mobilize resources with a view to enhancing the capacity of and reducing the heavy burden borne by host countries, in particular those that have received large numbers of refugees and asylum-seekers, and calls upon the Office to continue to play its catalytic role in mobilizing assistance from the international community to address the root causes as well as the economic, environmental and social impact of large-scale refugee populations in developing countries, in particular the least developed countries, and countries with economies in transition;

34. *Expresses deep concern* with the existing and potential challenges posed by the world financial and economic crisis to the activities of the Office of the High Commissioner;

35. *Calls upon* the Office of the High Commissioner to further explore ways and means to broaden its donor base, so as to achieve greater burden-sharing by reinforcing cooperation with governmental donors, non-governmental donors and the private sector;

36. *Recognizes* that adequate and timely resources are essential for the Office of the High Commissioner to continue to fulfil the mandate conferred upon it through its statute[10] and by subsequent General Assembly resolutions on refugees and other persons of concern, recalls its resolutions 58/153 of 22 December 2003, 58/270 of 23 December 2003, 59/170 of 20 December 2004, 60/129 of 16 December 2005, 61/137 of 19 December 2006, 62/124 of 18 December 2007 and 63/148 of 18 December 2008 concerning, inter alia, the implementation of paragraph 20 of the statute of the Office, and urges Governments and other donors to respond promptly to annual and supplementary appeals issued by the Office for requirements under its programmes;

37. *Requests* the High Commissioner to report on his activities to the General Assembly at its sixty-fifth session.

[10] Resolution 428 (V), annex.

United Nations A/C.3/64/L.53

General Assembly

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Sixty-fourth session
Third Committee
Agenda item 67 (a)
Elimination of racism, racial discrimination, xenophobia and related intolerance

Angola, Cape Verde, Cuba, Iraq, Myanmar, Russian Federation, Sudan, Uzbekistan, Venezuela (Bolivarian Republic of) and Zimbabwe: draft resolution

# Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance

*The General Assembly*,

*Guided* by the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the International Covenant on Civil and Political Rights,[2] the International Convention on the Elimination of All Forms of Racial Discrimination[3] and other relevant human rights instruments,

*Recalling* the provisions of Commission on Human Rights resolutions 2004/16 of 16 April 2004[4] and 2005/5 of 14 April 2005[5] and relevant Human Rights Council resolutions, in particular resolution 7/34 of 28 March 2008,[6] as well as General Assembly resolutions 60/143 of 16 December 2005, 61/147 of 19 December 2006, 62/142 of 18 December 2007 and 63/162 of 18 December 2008 on this issue and resolutions 61/149 of 19 December 2006, 62/220 of 22 December 2007 and 63/242 of 24 December 2008 entitled "Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action",

[1] Resolution 217 A (III).
[2] See resolution 2200 A (XXI), annex.
[3] United Nations, *Treaty Series*, vol. 660, No. 9464.
[4] See *Official Records of the Economic and Social Council, 2004, Supplement No. 3* (E/2004/23), chap. II, sect. A.
[5] Ibid., *2005, Supplement No. 3* and corrigenda (E/2005/23 and Corr.1 and 2), chap. II, sect. A.
[6] See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53* (A/63/53), chap. II.

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*Recalling also* the Charter of the Nuremberg Tribunal and the Judgement of the Tribunal, which recognized, inter alia, the SS organization and all its integral parts, including the Waffen SS, as criminal and declared it responsible for many war crimes and crimes against humanity,

*Recalling further* the relevant provisions of the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on 8 September 2001,[7] in particular paragraph 2 of the Declaration and paragraph 86 of the Programme of Action, as well as the relevant provisions of the outcome document of the Durban Review Conference of 24 April 2009,[8] in particular paragraphs 11 and 54,

*Alarmed*, in this regard, at the spread in many parts of the world of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups,

*Recalling* that the sixty-fourth session of the General Assembly coincides with the sixty-fifth anniversary of victory in the Second World War,

1. *Reaffirms* the provisions of the Durban Declaration[7] and of the outcome document of the Durban Review Conference,[8] in which States condemned the persistence and resurgence of neo-Nazism, neo-Fascism and violent nationalist ideologies based on racial and national prejudice and stated that those phenomena could never be justified in any instance or in any circumstances;

2. *Welcomes* the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance[9] prepared in accordance with the request contained in General Assembly resolution 63/162;

3. *Expresses its appreciation* to the United Nations High Commissioner for Human Rights for her commitment, as outlined in her report to the General Assembly,[10] to maintain the fight against racism as one of the priority activities of her Office;

4. *Expresses deep concern* about the glorification of the Nazi movement and former members of the Waffen SS organization, including by erecting monuments and memorials and holding public demonstrations in the name of the glorification of the Nazi past, the Nazi movement and neo-Nazism, as well as by declaring or attempting to declare such members and those who fought against the anti-Hitler coalition and collaborated with the Nazi movement as participants in national liberation movements;

5. *Expresses concern* at recurring attempts to desecrate or demolish monuments erected in remembrance of those who fought against Nazism during the Second World War, as well as to unlawfully exhume or remove the remains of such persons, and urges States in this regard to fully comply with their relevant obligations, inter alia, under article 34 of Additional Protocol I to the Geneva Conventions of 1949;[11]

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[7] See A/CONF.189/12 and Corr.1, chap. I.

[8] A/CONF.211/8, chap. I.

[9] A/64/295.

[10] A/64/36.

[11] United Nations, *Treaty Series*, vol. 1125, No. 17512.

6. *Notes with concern* the increase in the number of racist incidents in several countries and the rise of skinhead groups, which have been responsible for many of these incidents, as well as the resurgence of racist and xenophobic violence targeting members of ethnic, religious or cultural communities and national minorities, as observed by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance in his latest report;

7. *Reaffirms* that such acts may be qualified to fall within the scope of activities described in article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination[1] and that they may represent a clear and manifest abuse of the rights to freedom of peaceful assembly and of association as well as the rights to freedom of opinion and expression within the meaning of those rights as guaranteed by the Universal Declaration of Human Rights,[2] the International Covenant on Civil and Political Rights[3] and the International Convention on the Elimination of All Forms of Racial Discrimination;

8. *Stresses* that the practices described above do injustice to the memory of the countless victims of crimes against humanity committed in the Second World War, in particular those committed by the SS organization and those who fought against the anti-Hitler coalition or collaborated with the Nazi movement, and poison the minds of young people, and that those practices are incompatible with the obligations of States Members of the United Nations under its Charter and are incompatible with the goals and principles of the Organization;

9. *Also stresses* that such practices fuel contemporary forms of racism, racial discrimination, xenophobia and related intolerance and contribute to the spread and multiplication of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups;

10. *Emphasizes* the need to take the necessary measures to put an end to the practices described above, and calls upon States to take more effective measures in accordance with international human rights law to combat those phenomena and the extremist movements, which pose a real threat to democratic values;

11. *Reaffirms* in this regard the particular importance of education as a compliment to legislative measures, as outlined by the Special Rapporteur in his report to the General Assembly;

12. *Emphasizes* the recommendation of the Special Rapporteur regarding the importance of history classes in teaching the dramatic events and human suffering that resulted from the ideologies of Nazism and Fascism, especially in view of the upcoming sixty-fifth anniversary of victory in the Second World War;

13. *Underlines* the potentially positive role that relevant United Nations entities and programmes, in particular the United Nations Educational, Scientific and Cultural Organization, can play in the aforementioned areas;

14. *Reaffirms* that, according to article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination, States parties to that instrument are, inter alia, under the obligation:

(a) To condemn all propaganda and all organizations that are based on ideas of racial superiority or that attempt to justify or promote racial hatred and discrimination in any form;

(b) To undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention;

(c) To declare as an offence punishable by law all dissemination of ideas based on racial superiority or hatred, and incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

(d) To declare illegal and prohibit organizations and organized and all other propaganda activities that promote and incite racial discrimination and to recognize participation in such organizations or activities as an offence punishable by law;

(e) To prohibit public authorities or public institutions, national or local, from promoting or inciting racial discrimination;

15. *Reaffirms also* that, as underlined in paragraph 13 of the outcome document of the Durban Review Conference, any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law, that the dissemination of ideas based on racial superiority, hatred, acts of violence or incitement to such acts shall be declared offences punishable by law, and that these prohibitions are consistent with freedom of opinion and expression;

16. *Underlines* at the same time the positive role that the exercise of the right to freedom of opinion and expression, as well as the full respect for the freedom to seek, receive and impart information, can play in combating racism, racial discrimination, xenophobia and related intolerance;

17. *Encourages* those States that have made reservations to article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination to give serious consideration to withdrawing such reservations as a matter of priority;

18. *Recalls* the request of the Commission on Human Rights in its resolution 2005/5[5] that the Special Rapporteur continue to reflect on this issue, make relevant recommendations in his future reports and seek and take into account in this regard the views of Governments and non-governmental organizations;

19. *Requests* the Special Rapporteur to prepare, within existing resources, for submission to the General Assembly at its sixty-fifth session and the Human Rights Council, reports on the implementation of the present resolution based on the views collected in accordance with the request of the Commission on Human Rights, as recalled by the Assembly in paragraph 18 above;

20. *Expresses its appreciation* to those Governments that have provided information to the Special Rapporteur in the course of the preparation of his report to the General Assembly;

21. *Urges* Governments and non-governmental organizations to cooperate fully with the Special Rapporteur in the exercise of the tasks outlined in paragraph 19 above;

22. *Decides* to remain seized of the issue.